

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
 YAVAPAI COUNTY, ARIZONA
 FOR THE COUNTY OF YAVAPAI

2012 FEB -7 AM 9:23 ✓

SANDRA C. HATHMAN, CLERK

BY: _____

Jacqueline Harshman

STATE OF ARIZONA,)

Plaintiff,)

vs.)

JAMES ARTHUR RAY,)

Defendant.)

Case No. V1300CR201080049

Court of Appeals

Case No. 1 CA-CR 11-0895

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE WARREN R. DARROW

TRIAL DAY TEN

MARCH 4, 2011

Camp Verde, Arizona

ORIGINAL

REPORTED BY
 MINA G. HUNT
 AZ CR NO. 50619
 CA CSR NO. 8335

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 FOR THE COUNTY OF YAVAPAI

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4 STATE OF ARIZONA,)
5 Plaintiff,)
6 vs) Case No V1300CR201080049
7 JAMES ARTHUR RAY,) Court of Appeals
8) Case No 1 CA-CR 11-0895
9 Defendant)

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15 BEFORE THE HONORABLE WARREN R DARROW
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18 Camp Verde, Arizona

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1 Proceedings had before the Honorable

2 WARREN R. DARROW, Judge, taken on Friday, March 4,
3 2011, at Yavapai County Superior Court,
4 Division Pro Tem B, 2840 North Commonwealth Drive,
5 Camp Verde, Arizona, before Mina G. Hunt, Certified
6 Reporter within and for the State of Arizona.

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PROCEEDINGS

(Proceedings continued outside presence of jury.)

THE COURT: We're on the record with the defendant, Mr. Ray, present and the attorneys. The jury is not present.

I've talked briefly just about scheduling, nothing substantively about the case. The people I talked to were Sheila Polk and Luis Li.

The first thing that needs to be addressed is a concern of the next witness with being on camera.

I appreciate the media don't have their cameras out today. Thank you. I've requested that.

My bailiff has informed me, though, they have some subquestions to that. One is is there any issue with audio recording. Normally journalist can have their personal audio recording active at the time.

Ms. Polk is there any issue with that?

MS. POLK: Your Honor, that is normally allowed under the rules.

THE COURT: It is.

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MS. POLK: May I have a moment?

THE COURT: Yes. It's subsection (i).

MS. POLK: Judge I'm pausing because I see a conflict between paragraph 1. It talks about electronic. And, of course, electronic would include audio recordings as well as video recordings. And so that does seem to allow a witness to not be subject to electronic coverage.

THE COURT: What subdivision of 122 are you looking at?

MS. POLK: I'm looking at starting with 1. Says electronic and still photographic coverage.

THE COURT: I'm not with you. 122 starts out electronic and still photographic coverage may be permitted in accordance with the following guidelines.

MS. POLK: Right. And what I'm suggesting is electronic includes audio as well as video. So this --

THE COURT: The subsection, then, for the witness concern is -- that's what I mean. That's going to address that. It's subsection (d). Electronic and photographic coverage of the appearance or testimony. It says appearance or testimony of a particular witness may be prohibited

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if the Court makes the determinations.

MS. POLK: Yes. What I'm saying is that seems to include audio as well as photographic coverage.

THE COURT: I just wondered if that was a concern. That's why I asked. It's there.

Normally the normal procedure would be under (i) to allow individual journalist -- actually journalists to have that on. But if you're invoking (d) at this time for both aspects, we'll just move ahead.

MS. POLK: Yes.

THE COURT: Mr. Li, at any time if you have a point, obviously interrupt me. Otherwise I'll assume you're not taking a particular position.

MR. LI: No, Your Honor. We would just reserve the right that whatever rulings and standards the Court makes would also apply to Mr. Ray should he choose to later assert those rights.

THE COURT: I don't want to get into the language right now. We can look at this more closely in the future if it comes up again. But it does say electronic coverage of the appearance of the person or testimony which, would apply to actual testimony as opposed to a pretestimonial hearing under 122. But at this point I'm going to

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request that there is -- this is a fully open proceeding but there not be audio recording in deference to the policy here in Rule 122 and the fact that it does not seem to be completely clear. I'm requesting that of the journalists present.

What I'm going to do is ask that the witness come in. And I don't know that it needs to be a sworn statement. I think it need to be discussed and they need to hear the concerns.

MS. POLK: You want her to take the witness stand, Your Honor?

THE COURT: She can. There will be no camera coverage of any kind anywhere in the courtroom. I wanted to mention that as well. No still photographic coverage.

Ma'am, I'm not going to put you under oath at this time. Just for convenience would you please have a seat here at the witness stand. Go ahead and talk into the microphone for regular audio.

Would you state your name, please.

MISS TUCKER: My name is Laura Tucker.

THE COURT: Spell "Laura."

MISS TUCKER: L-a-u-r-a.

MS. POLK: Good morning, Ms. Tucker.

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09:16:03AM 1 You have expressed concern about
 09:16:05AM 2 having your testimony appear on TV or be broadcast.
 09:16:08AM 3 That's what we're here about first, to talk about
 09:16:11AM 4 that concern. And the Court will make a
 09:16:14AM 5 determination whether or not your testimony would
 09:16:17AM 6 be broadcast.

09:16:19AM 7 Can you just explain generally to the
 09:16:22AM 8 Court what your concern is?

09:16:25AM 9 MISS TUCKER: Absolutely. Well, I think from
 09:16:28AM 10 my perspective this has been a very difficult
 09:16:31AM 11 experience. And the idea of -- I know it's
 09:16:34AM 12 important to be here. I know it's important that
 09:16:37AM 13 everyone in this room hear my testimony. But I do
 09:16:40AM 14 not look forward or -- you know -- appreciate the
 09:16:43AM 15 exposure of reliving the trauma for all to see.

09:16:46AM 16 MS. POLK: Are you nervous about testifying?

09:16:49AM 17 MISS TUCKER: I'm nervous. Yes.

09:16:52AM 18 MS. POLK: And does the prospect of having
 09:16:55AM 19 your testimony be broadcast -- does that make you
 09:16:58AM 20 more nervous?

09:17:01AM 21 MISS TUCKER: It takes it to another level.

09:17:04AM 22 So yes.

09:17:07AM 23 MS. POLK: Do you have a privacy concern about
 09:17:10AM 24 your testimony?

09:17:13AM 25 MISS TUCKER: I do. I have a privacy concern
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09:17:25AM 1 about for myself. And I think some of the content
 09:17:28AM 2 is difficult and I have concern for the privacy of
 09:17:31AM 3 others.

09:17:34AM 4 Q. And also, Ms. Tucker, are you employed?

09:17:37AM 5 A. I'm self-employed.

09:17:40AM 6 Q. You're aware that in today's world we
 09:17:43AM 7 have all sorts of social media that picks up on any
 09:17:46AM 8 event and can republish it and republish it across
 09:17:49AM 9 the world. We also know that clients Google
 09:17:52AM 10 professional contacts, that many people who are
 09:17:55AM 11 looking for a service will Google that service or
 09:17:58AM 12 Google an individual.

09:18:01AM 13 Does that also create a concern for you
 09:18:04AM 14 about the impact of your testimony on your
 09:18:07AM 15 business?

09:18:10AM 16 MISS TUCKER: I think the impact of the
 09:18:13AM 17 testimony is just on my life in general and for
 09:18:16AM 18 everybody involved.

09:18:19AM 19 MS. POLK: Can you be a bit more specific
 09:18:22AM 20 about how having this broadcast, having your
 09:18:25AM 21 testimony broadcast, impacts your life in general?

09:18:28AM 22 MISS TUCKER: Well, you know, I'm a private
 09:18:31AM 23 person. When I have something to say, I certainly
 09:18:34AM 24 will get up and say it. But I'm a private person.
 09:18:37AM 25 And I like to have the opportunity to keep details

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09:18:53AM 1 of my life private. And I think that's very
 09:18:56AM 2 important to me. And it becomes about choice.

09:18:59AM 3 MS. POLK: And when you signed up and
 09:19:02AM 4 participated in Spiritual Warrior in 2009, did you
 09:19:05AM 5 think someday you would be testifying in a
 09:19:08AM 6 courtroom and having your testimony broadcast to
 09:19:11AM 7 the world?

09:19:14AM 8 MISS TUCKER: Absolutely not.

09:19:17AM 9 MS. POLK: You talked about being nervous and
 09:19:20AM 10 being more nervous knowing that it possibly was
 09:19:23AM 11 being taped and broadcast. Does having it -- the
 09:19:26AM 12 prospect of having it broadcast and making you
 09:19:29AM 13 nervous -- do you think that would interfere with
 09:19:32AM 14 your ability to testify?

09:19:35AM 15 MISS TUCKER: No.

09:19:38AM 16 MS. POLK: How about on your ability to
 09:19:41AM 17 concentrate and answer the questions?

09:19:44AM 18 MISS TUCKER: I'll do my best.

09:19:47AM 19 MS. POLK: You will do your best no matter
 09:19:50AM 20 what?

09:19:53AM 21 MISS TUCKER: I will do my best no matter
 09:19:56AM 22 what.

09:19:59AM 23 MS. POLK: Would it be easier to do your best
 09:20:02AM 24 if you knew you were not being filmed and
 09:20:05AM 25 broadcast?

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09:20:08AM 1 MISS TUCKER: It would.

09:20:11AM 2 MS. POLK: Thank you, Judge.

09:20:14AM 3 THE COURT: Thank you, Ms. Polk.

09:20:17AM 4 Ms. Tucker, are you telling me that if
 09:20:20AM 5 you are on camera, that would affect the ability
 09:20:23AM 6 for you to tell the truth on the stand?

09:20:26AM 7 MISS TUCKER: Nothing will affect my ability
 09:20:29AM 8 to tell the truth on the stand.

09:20:32AM 9 THE COURT: Is there anything about camera
 09:20:35AM 10 coverage that would limit your ability to discuss
 09:20:38AM 11 everything that's involved in the testimony? In
 09:20:41AM 12 other words, would your testimony be rushed, might
 09:20:44AM 13 you not give the full account if question requires
 09:20:47AM 14 that?

09:20:50AM 15 MISS TUCKER: I think the most important thing
 09:20:53AM 16 is that I do my best job as a witness regardless of
 09:20:56AM 17 the circumstances. I have concerns. I don't like
 09:20:59AM 18 the position of being broadcast something that was
 09:21:02AM 19 intensely personal. And so that is really the
 09:21:05AM 20 basis of my concern.

09:21:08AM 21 There were many victims or casualties at
 09:21:11AM 22 that event, myself one of them. And the prospect
 09:21:14AM 23 of reliving that for the world to see is not
 09:21:17AM 24 something that I felt I could go without expressing
 09:21:20AM 25 a huge concern.

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09 21 43AM 1 THE COURT: My question, again, and the key
09 21 46AM 2 question is, is that concern going to affect the
09 21 51AM 3 completeness and the accuracy, truthfulness of your
09 21 54AM 4 testimony in any way?
09 21 57AM 5 THE WITNESS: No, it will not.
09 22 00AM 6 THE COURT: Thank you. If you could have a
09 22 05AM 7 seat in the courtroom right now.
09 22 07AM 8 I'll address this.
09 22 35AM 9 MS. POLK: Your Honor, might I be heard?
09 22 38AM 10 THE COURT: You may.
09 22 39AM 11 MS. POLK: I'm looking at Rule 122 and the
09 22 42AM 12 considerations that the Supreme Court laid out in
09 22 46AM 13 making this decision. And the words that pop out
09 22 48AM 14 to me from 122(b)(1) or (b)(2) is that the right of
09 22 58AM 15 privacy of a witness, in No. 3, the safety and well
09 23 03AM 16 being of a witness. And then in Subsection (d),
09 23 07AM 17 the balancing test for this court is would
09 23 13AM 18 broadcasting the testimony have a greater adverse
09 23 15AM 19 impact upon the witness or his or her testimony
09 23 18AM 20 than nonelectronic coverage would have?
09 23 22AM 21 The Court asked some important questions
09 23 25AM 22 about her ability to tell the truth. And I think
09 23 26AM 23 this witness was clear she can tell the truth no
09 23 29AM 24 matter what. I don't see this rule is limited just
09 23 32AM 25 to making a finding whether or not the witness can
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09 23 35AM 1 still tell the truth just because she's being
09 23 37AM 2 broadcast live. This rule does focus on the
09 23 42AM 3 privacy rights of a witness. That's in No. 2 and
09 23 46AM 4 No. 3, the safety and well being of the witness;
09 23 50AM 5 and then in (d), balancing the adverse impact on
09 23 55AM 6 the witness against the coverage.
09 23 59AM 7 THE COURT: For one thing, audio recording is
09 24 01AM 8 permitted now. If anybody has that. So this all
09 24 07AM 9 can be on audio.
09 24 10AM 10 Any further discussion?
09 24 28AM 11 Of course, the coverage is going to be
09 24 32AM 12 complete and extensive regardless. The information
09 24 35AM 13 is going to be there. And I appreciate
09 24 41AM 14 Ms. Tucker's candor. I don't see how the coverage,
09 24 57AM 15 the camera coverage, is going to really have a
09 25 06AM 16 significant additional affect on privacy because
09 25 09AM 17 the name will be out there. Transcripts of
09 25 11AM 18 testimony available, all of that.
09 25 23AM 19 I didn't hear anything -- anybody can
09 25 26AM 20 correct me on this. I didn't hear anything that
09 25 32AM 21 impacts safety, well being, more comfortable in
09 25 37AM 22 another setting. I think a lot of people can say
09 25 45AM 23 it might be more comfortable. But in terms of
09 25 51AM 24 actual impact on well being, I don't see that. Any
09 25 51AM 25 concern of detracting from the dignity of the
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09 25 54AM 1 proceedings -- I don't see that a concern. The
09 25 57AM 2 other factors.
09 26 05AM 3 I just don't find under (d) that there
09 26 11AM 4 would be a greater adverse impact upon the witness
09 26 16AM 5 or her testimony than the nonelectronic,
09 26 21AM 6 nonphotographic coverage. There will be coverage.
09 26 25AM 7 This is the first hearing, and I don't know that --
09 26 30AM 8 I don't think there is any particular law other
09 26 34AM 9 than what this rule states. So the matter will
09 26 37AM 10 proceed as I've indicated.
09 26 40AM 11 And because the rule of exclusion has
09 26 42AM 12 been invoked, I am going to ask Ms. Tucker to
09 26 45AM 13 please excuse herself at this time and because
09 26 48AM 14 there are some pretrial matters to take up.
09 26 52AM 15 Thank you, ma'am.
09 26 59AM 16 I do want to say this -- of course this
09 27 13AM 17 can now be fully covered electronically and all of
09 27 19AM 18 that.
09 27 23AM 19 I will say something. And this can be
09 27 27AM 20 part of the other proceeding which was all public
09 27 29AM 21 anyway. I am going to observe -- and I think that
09 27 32AM 22 this can be revisited as testimony progresses.
09 27 36AM 23 I meant to say that, Ms. Polk, and I
09 27 39AM 24 thought of that previously. I have to observe
09 27 41AM 25 things, and people need to call something to my
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09 27 43AM 1 attention. Mr. Li also. If I think there is some
09 27 47AM 2 kind of issue with impact on a person, I think that
09 27 52AM 3 has to be a continuing concern.
09 27 56AM 4 I'm just going to note time initially.
09 27 59AM 5 And I mentioned this very briefly to Mr. Li and
09 28 01AM 6 Ms. Polk. There are pretrial issues to take up. I
09 28 04AM 7 really want to know. I can set a time. I can say
09 28 08AM 8 8:15 every day. I prefer not to do that. I would
09 28 11AM 9 like to think you're going to communicate and not
09 28 14AM 10 have people here when there are other things you
09 28 17AM 11 can do that will really promote the progress of the
09 28 19AM 12 trial.
09 28 20AM 13 I don't want to have jurors waiting
09 28 22AM 14 needlessly if we need to have some legal time,
09 28 26AM 15 especially in the early days of the trial. That's
09 28 28AM 16 going to happen. I would like the heads up on that
09 28 31AM 17 so we can get a more realistic time for them to
09 28 34AM 18 appear.
09 28 37AM 19 With regard to the things I want to
09 28 39AM 20 cover, I wanted to make sure that the exhibits
09 28 43AM 21 from -- they're not really exhibits. They're part
09 28 45AM 22 of the record, though -- the thumb drive and the
09 28 47AM 23 PowerPoint. I want to make sure those are on the
09 28 50AM 24 record now.
09 28 51AM 25 Is that the case?
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09:28:52AM 1 MS. POLK: Your Honor, the state has not
09:28:53AM 2 submitted it. I intended to take care of that this
09:28:55AM 3 week and submit it next week.

09:29:00AM 4 MR. LI: The same, Your Honor.

09:29:00AM 5 THE COURT: I just want to make sure that gets
09:29:01AM 6 done. And in order to minimize bench conferences,
09:29:05AM 7 I really want to take up in limine whatever we can.
09:29:09AM 8 There are patterns that are developing, certain
09:29:12AM 9 kinds of questions bring about objections. And we
09:29:16AM 10 need to get rulingS in place so that when an
09:29:19AM 11 objection is made, it can just be understood and we
09:29:22AM 12 can move ahead.

09:29:23AM 13 I think at the start of the trial having
09:29:27AM 14 the bench conferences, I don't have a problem with
09:29:30AM 15 that at the start of the trial. I realize people
09:29:33AM 16 don't want to be asserting a lot of objections.
09:29:36AM 17 That's how it works.

09:29:37AM 18 But we're not going to continue to have
09:29:38AM 19 lengthy bench conferences. We're going to do what
09:29:41AM 20 we need to legally outside the presence of the
09:29:44AM 21 jury. And there are going to be objections from
09:29:48AM 22 the tables. And we're going to proceed in that
09:29:50AM 23 fashion.

09:29:54AM 24 First of all, let's -- if it's going to
09:29:58AM 25 come up with regard to Ms. Tucker, I want to
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09:30:01AM 1 discuss any kind of issue that might arise, for
09:30:07AM 2 example, regarding refund policy.

09:30:09AM 3 Because I think you indicated, Ms. Polk,
09:30:12AM 4 at a bench conference that there were people, that
09:30:14AM 5 that's a factor, and you thought it was
09:30:18AM 6 appropriate. I think that's what you've indicated.

09:30:20AM 7 I have indicated at bench here that to me
09:30:26AM 8 it really gets into that business practice or it
09:30:29AM 9 can get into that business practice area that I've
09:30:33AM 10 ordered is not going to be a focus of this trial --
09:30:38AM 11 business practices.

09:30:39AM 12 Just to ask a question of witnesses to
09:30:40AM 13 see whether or not that's a factor, I have a
09:30:43AM 14 concern with that. If -- we discussed the
09:30:49AM 15 importance or potential importance or not of mental
09:30:52AM 16 state of other participants and what that meant,
09:30:58AM 17 how that might affect what happened in the sweat
09:31:01AM 18 lodge.

09:31:05AM 19 If there is a factor that really impacted
09:31:08AM 20 that, at this point that is potentially relevant
09:31:12AM 21 evidence that can be offered. It's not something
09:31:18AM 22 that I think typically would be. So I want to know
09:31:21AM 23 right now. I don't want to have another bench
09:31:22AM 24 conference on that coming up.

09:31:22AM 25 Is that anticipated in this witness?
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09:31:24AM 1 MS. POLK: No, Your Honor. And what I said
09:31:28AM 2 before was with certain witnesses it was a factor.
09:31:29AM 3 As everybody knows, I did not ask the first
09:31:32AM 4 witness, Melissa Phillips, about it. It's not a
09:31:36AM 5 factor for Laura Tucker. It will be down the line
09:31:38AM 6 with other witnesses.

09:31:40AM 7 THE COURT: We don't need to address that now.
09:31:42AM 8 But I just want to make sure that -- that's
09:31:44AM 9 something we need to address not in a bench
09:31:46AM 10 conference context.

09:31:48AM 11 I just want to mention the other thing
09:31:50AM 12 too. There is a real 403 aspect to that. And
09:31:53AM 13 that's what I'm very mindful of.

09:31:55AM 14 The other thing that came up that I think
09:31:58AM 15 might come up again has to do with potential
09:32:04AM 16 questions that might call for a legal conclusion,
09:32:08AM 17 really speculation into what might be in the minds,
09:32:14AM 18 what was in the minds of alleged victims.

09:32:17AM 19 There was one question yesterday that had
09:32:19AM 20 to do with how lucidity might impact the ability to
09:32:24AM 21 get informed consent. There is a lot of legal
09:32:27AM 22 conclusion potential in that question. At the same
09:32:29AM 23 time, it's the kind of information that a layperson
09:32:32AM 24 can talk about. Especially if there is foundation
09:32:36AM 25 and lucidity is explained. And informed consent
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09:32:40AM 1 also has meaning to a layperson. Doesn't just have
09:32:43AM 2 legal meaning.

09:32:44AM 3 The way I see it, it's very important to
09:32:46AM 4 stay away from projecting onto what alleged victims
09:32:50AM 5 might have thought and why they did things versus
09:32:53AM 6 what a particular participant was affected by.

09:33:01AM 7 Ms. Polk, do you understand what I'm
09:33:02AM 8 saying?

09:33:02AM 9 MS. POLK: I do, Your Honor.

09:33:03AM 10 THE COURT: Mr. Li or Ms. Do, whoever is going
09:33:06AM 11 to cross-examine?

09:33:08AM 12 MS. DO: Yes, Your Honor.

09:33:09AM 13 THE COURT: Those are the issues. I didn't
09:33:18AM 14 know there was going to be -- I was really prepared
09:33:19AM 15 to discuss further testimony by Ms. Phillips. And
09:33:24AM 16 I don't need to go into that if that's not the
09:33:28AM 17 case. If anybody knows what might come up and we
09:33:30AM 18 can discuss it here in a motion-in-limine context,
09:33:34AM 19 I'd like to discuss it.

09:33:36AM 20 MR. HUGHES: Thank you, Your Honor. The state
09:33:37AM 21 has one issue, which I think is sort of the issues
09:33:38AM 22 Your Honor mentioned that comes up at the beginning
09:33:40AM 23 of trial and probably should be addressed now.

09:33:42AM 24 Yesterday during examination of
09:33:44AM 25 Ms. Phillips the defense asked her a number of
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09 33 47AM 1 times questions about organophosphates. Did anyone
 09 33 52AM 2 at Angel Valley mention organophosphates? Did the
 09 33 58AM 3 EMS mention organophosphates? The word
 09 34 03AM 4 "organophosphate" was asked two or three or maybe
 09 34 08AM 5 four times.
 09 34 14AM 6 Clearly a question when there is a
 09 34 19AM 7 good-faith basis is appropriate. However, nowhere
 09 34 24AM 8 in Ms. Phillips's interviews was organophosphates
 09 34 29AM 9 ever mentioned. Nowhere in the reports of the
 09 34 34AM 10 police department or sheriff's department were
 09 34 39AM 11 organophosphates mentioned. The time
 09 34 44AM 12 organophosphates first came up in this case, Your
 09 34 49AM 13 Honor, was a little over a month ago when we
 09 34 54AM 14 finally got to interview the defense's medical
 09 34 59AM 15 expert and he hypothesized organophosphates might
 09 35 04AM 16 be an issue.
 09 35 09AM 17 So to ask this witness to, basically,
 09 35 14AM 18 testify through her question, did someone mention
 09 35 19AM 19 organophosphates to you when there is no indication
 09 35 24AM 20 whatsoever in this case that the witness knows
 09 35 29AM 21 anything about that or that anyone at Angel Valley
 09 35 34AM 22 mentioned that or that the EMS people mentioned
 09 35 39AM 23 that, I think that lacks a good-faith basis. And
 09 35 44AM 24 it certainly appears to be counsel testimony
 09 35 49AM 25 through the question regardless of what the
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09 34 58AM 1 witness's answer was.
 09 35 03AM 2 I saw jurors writing that word down when
 09 35 08AM 3 the defense counsel was asking the question.
 09 35 13AM 4 Clearly the witness had never heard of it. And all
 09 35 18AM 5 the materials in this case established that the
 09 35 23AM 6 fire department never mentioned organophosphates,
 09 35 28AM 7 the Mercers never mentioned organophosphates, the
 09 35 33AM 8 Hamiltons didn't. There was some mention by
 09 35 38AM 9 treating doctors at the hospital that maybe there
 09 35 43AM 10 was a poisoning. Even they didn't mention
 09 35 48AM 11 organophosphates in the medical records.
 09 35 53AM 12 And so the state would object to the
 09 35 58AM 13 asking of questions like that unless there is a
 09 36 03AM 14 good-faith basis. Certainly their expert,
 09 36 08AM 15 Dr. Paul, who brought it up in the interview -- I
 09 36 13AM 16 think that's fair game for them to ask him. But
 09 36 18AM 17 unless they can show they have some good-faith
 09 36 23AM 18 basis to ask other witnesses, the state would
 09 36 28AM 19 object to what is, in essence, testifying through
 09 36 33AM 20 the question.
 09 36 38AM 21 THE COURT: Mr. Li.
 09 36 43AM 22 MR. LI: Yes. I just want to correct the
 09 36 48AM 23 factual record here. The tape that we played in
 09 36 53AM 24 opening statement is a state's tape of a number of
 09 36 58AM 25 interviews that they were conducting. I think it
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09 36 05AM 1 falls right between, I think, when Mr. Barber is
 09 36 10AM 2 being interviewed. And it's being taken in the
 09 36 15AM 3 conference room where everybody is being
 09 36 20AM 4 interviewed.
 09 36 25AM 5 In the middle of this interview, a EMT
 09 36 30AM 6 person -- we believe an EMT person comes in and
 09 36 35AM 7 says what he says, which is, I think, ladies and
 09 36 40AM 8 gentlemen, look out for yourselves. I think -- we
 09 36 45AM 9 think there has been an organophosphates or carbon
 09 36 50AM 10 monoxide poisoning.
 09 36 55AM 11 You hear someone in the audience say,
 09 37 00AM 12 what sort of symptoms should we look at?
 09 37 05AM 13 The medical personnel says, nausea,
 09 37 10AM 14 vomiting, headache. Exactly what you have.
 09 37 15AM 15 And this is on October 8, the night of
 09 37 20AM 16 the incident. So the first time the state actually
 09 37 25AM 17 heard about it -- this is a room full of
 09 37 30AM 18 detectives, and they're recording this. We didn't
 09 37 35AM 19 record it. They did.
 09 37 40AM 20 The first time the state hears about it
 09 37 45AM 21 is on October 8. And it's not because our doctor,
 09 37 50AM 22 Dr. Paul, who is a medical examiner in New Mexico,
 09 37 55AM 23 found this. He's actually never heard this tape.
 09 38 00AM 24 So we have a very good-faith basis to ask
 09 38 05AM 25 the question whether folks who were being
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09 37 15AM 1 interviewed in a mass-interview session by the
 09 37 20AM 2 detectives heard the medical folks come in and ask
 09 37 25AM 3 about organophosphates.
 09 37 30AM 4 I make the following point: Here's what
 09 37 35AM 5 actually happened: After the accident a number of
 09 37 40AM 6 patients were taken to the hospital immediately by
 09 37 45AM 7 helicopter or by ambulance. Then a number of the
 09 37 50AM 8 remaining people, including some of the --
 09 37 55AM 9 including Ms. Phillips, including some of the other
 09 38 00AM 10 witnesses that you will hear from, were brought
 09 38 05AM 11 into a conference room, where they all sat down and
 09 38 10AM 12 they were being interviewed by the detectives.
 09 38 15AM 13 At that point that's when the EMT folks
 09 38 20AM 14 come in and say look, guys. You all seem out of
 09 38 25AM 15 the danger zone now. But if anyone starts showing
 09 38 30AM 16 the following symptoms -- headache, nausea,
 09 38 35AM 17 et cetera -- you need to call 911. And we're going
 09 38 40AM 18 to take you to the hospital. Because -- you
 09 38 45AM 19 know -- we're worried that there might be carbon
 09 38 50AM 20 monoxide poisoning and organophosphates. That's on
 09 38 55AM 21 tape. That's on the state's tape.
 09 39 00AM 22 So it's simply not the case that we have
 09 39 05AM 23 sprung this on the state. They've either known or
 09 39 10AM 24 should have known about this for about a year and a
 09 39 15AM 25 half.
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09:38:31AM 1 THE COURT: Thank you.
 09:38:32AM 2 Mr. Hughes.
 09:38:33AM 3 MR. HUGHES: Your Honor, clearly if it's on
 09:38:34AM 4 tape, I think we can resolve the issue pretty
 09:38:35AM 5 quickly because it's a binary. It either is or
 09:38:36AM 6 isn't. My recollection was the tape referred to
 09:38:37AM 7 toxin and it referred to carbon monoxide but it
 09:38:38AM 8 didn't refer to the word "organophosphates."

09:38:52AM 9 MR. LI: I can play the tape right now,
 09:38:54AM 10 Your Honor.

09:38:54AM 11 THE COURT: Okay. Let's clear that up.

09:39:05AM 12 MR. LI: I've got to cue this up. This is
 09:39:07AM 13 what the state objected to in my opening.

09:39:20AM 14 MR. HUGHES: Your Honor, we also have a --
 09:39:22AM 15 when this is cleared up, we have a secondary
 09:39:25AM 16 objection.

09:39:53AM 17 (Audio played.)

09:40:40AM 18 THE COURT: We know the language now.

09:40:42AM 19 MR. HUGHES: We do, Your Honor. And given
 09:40:45AM 20 that, I would withdraw that objection. I think
 09:40:47AM 21 there is a basis for questioning. But that still
 09:40:49AM 22 leaves the other -- the secondary basis for the
 09:40:53AM 23 state's objection, which is it's eliciting hearsay
 09:40:56AM 24 whether that witness heard an unknown person, as
 09:40:58AM 25 the transcript that's up on the screen shows,

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09:41:02AM 1 mentioned the word "organophosphates" is not
 09:41:07AM 2 relevant and it's hearsay. And it doesn't fall
 09:41:08AM 3 into any of the recognized hearsay exceptions.

09:41:13AM 4 At a bench conference the defense had
 09:41:15AM 5 argued that they could play it in the opening
 09:41:17AM 6 because it went to whether the detectives heard
 09:41:19AM 7 that. I think it's appropriate, if the Court
 09:41:21AM 8 continues with the its ruling, that the detectives
 09:41:24AM 9 perhaps be asked did you follow up along those
 09:41:26AM 10 lines? But to ask another witness what she heard
 09:41:30AM 11 an unknown person say is clearly hearsay and should
 09:41:34AM 12 not be admitted.

09:41:36AM 13 THE COURT: Once again, it may not be offered
 09:41:38AM 14 for the truth, so it might not be hearsay. But I'm
 09:41:42AM 15 concerned with the relevance with regard to
 09:41:43AM 16 participants as opposed to people who might be
 09:41:46AM 17 investigating and if they have a lead early --

09:41:49AM 18 The argument you made before, Mr. Li.

09:41:52AM 19 MR. LI: There is two issues here. One is the
 09:41:54AM 20 relevance is simply causation. The second issue is
 09:41:58AM 21 why did you go to the hospital? Did you go to the
 09:42:00AM 22 hospital because you had heat stroke, or did you go
 09:42:05AM 23 to the hospital because folks were worried that you
 09:42:06AM 24 might have?

09:42:07AM 25 THE COURT: Then that would be -- that would

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09:42:09AM 1 be Mr. Hughes's point.

09:42:11AM 2 MR. LI: Actually, not quite. It wouldn't be
 09:42:12AM 3 that you, in fact, had organophosphate poisoning.
 09:42:17AM 4 It's just why did you go to the hospital? It's a
 09:42:18AM 5 state of mind. It's not being -- we don't know.
 09:42:23AM 6 It's not the defense's theory that folks -- we know
 09:42:27AM 7 that folks were poisoned with organophosphates.
 09:42:28AM 8 There are just a lot of clues to suggest that.
 09:42:32AM 9 There are other clues out there too.

09:42:34AM 10 So we're not offering this for the truth
 09:42:36AM 11 of the matter asserted. We're just offering it
 09:42:38AM 12 because there were people that went to the
 09:42:40AM 13 hospital. The entire reason -- the state is
 09:42:43AM 14 leaving the jury with the impression that the
 09:42:44AM 15 reason why the second wave of people went to the
 09:42:48AM 16 hospital was because of heat stroke or heat
 09:42:52AM 17 exhaustion. That's not the case. That's simply
 09:42:52AM 18 not the case.

09:42:53AM 19 The reason why they went to the hospital
 09:42:55AM 20 was what this EMT says. Hey, look. Watch out for
 09:43:00AM 21 yourself.

09:43:00AM 22 So what's being elicited is why did you
 09:43:04AM 23 go to the hospital.

09:43:06AM 24 MR. HUGHES: Your Honor, I think it is being
 09:43:08AM 25 offered for the truth of the matter. Her reason

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09:43:11AM 1 for going to the hospital is not a relevant issue
 09:43:15AM 2 in this case, which is a manslaughter case. It's
 09:43:20AM 3 clearly being offered for the truth of the matter.
 09:43:23AM 4 What she heard and why she decided to go
 09:43:28AM 5 to the hospital is not relevant. Her symptoms that
 09:43:29AM 6 she suffered are relevant because that goes to the
 09:43:32AM 7 causation issue.

09:43:34AM 8 But what was behind her mind -- for
 09:43:36AM 9 example, the last witness, Ms. Phillips, mentioned
 09:43:38AM 10 well, I had insurance so I decided to go. That
 09:43:43AM 11 fact that she had insurance and decided to go isn't
 09:43:49AM 12 relevant to an issue in the case.

09:43:49AM 13 So we're left with the relevancy. And
 09:43:51AM 14 the state is -- Your Honor, it is classic hearsay.
 09:43:54AM 15 It's being offered for the truth of the matter that
 09:43:56AM 16 somehow she had carbon monoxide or some other
 09:44:00AM 17 poisoning. There is no limiting instruction that
 09:44:02AM 18 can parcel that fine distinction between those two
 09:44:06AM 19 points.

09:44:08AM 20 MR. LI: Your Honor --

09:44:09AM 21 THE COURT: Well, that's what Rule 105
 09:44:11AM 22 requires sometimes, though, Mr. Hughes, is to
 09:44:14AM 23 separate out what's not hearsay because it's not
 09:44:18AM 24 offered for the truth. I understand you're saying
 09:44:21AM 25 it would be too difficult in this case. But that's

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09 44 24AM 1 often the case.
 09 44 24AM 2 I don't want to get into what
 09 44 27AM 3 Ms. Phillips -- not Ms. Phillips -- Ms. Haley's
 09 44 30AM 4 testimony might have been. And that's who we were
 09 44 33AM 5 preparing for. But -- you know -- if that passage
 09 44 36AM 6 comes in and it's not for the truth, it's still
 09 44 39AM 7 there. And that's always a problem.

09 44 46AM 8 Mr. Li.

09 44 47AM 9 MR. LI: I'm just -- I don't quite understand
 09 44 50AM 10 the state's argument on many different levels. I
 09 44 54AM 11 mean, this is, essentially, relevant information --

09 44 57AM 12 THE COURT: To.

09 44 59AM 13 MR. LI: -- that explains why a patient went
 09 45 01AM 14 to the hospital. Let me just make one point. The
 09 45 04AM 15 state put in her medical records and left on the
 09 45 08AM 16 easel or left on the projector for 25 minutes
 09 45 15AM 17 something about heat exhaustion.

09 45 18AM 18 Ms. Polk asked the witness whether she
 09 45 23AM 19 had been given materials about heat exhaustion.
 09 45 27AM 20 The point that the state was seeking to make, and I
 09 45 30AM 21 suppose not offered for the truth of the matter
 09 45 32AM 22 asserted, was that her doctors had said something
 09 45 35AM 23 about heat exhaustion. And I suppose that the
 09 45 38AM 24 purpose behind the state soliciting those points
 09 45 43AM 25 was that well, it's not the truth of the matter

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09 45 46AM 1 asserted. It's just what you were told by your
 09 45 49AM 2 doctor, and we'll call it a day.

09 45 51AM 3 What we're simply saying is the primary
 09 45 53AM 4 reason this second wave of people might have gone
 09 45 57AM 5 to the hospital, the reasons why they thought they
 09 46 00AM 6 were going to the hospital, was because they might
 09 46 02AM 7 have had carbon monoxide poisoning. They were
 09 46 06AM 8 worried they might have had carbon monoxide
 09 46 12AM 9 poisoning and they were worried they might have had
 09 46 15AM 10 organophosphate poisoning. That's not hearsay.

09 46 17AM 11 You can simply ask them why did you go to
 09 46 19AM 12 the hospital?

09 46 20AM 13 I thought I might have carbon monoxide
 09 46 23AM 14 poisoning. I thought I might have had
 09 46 24AM 15 organophosphates poisoning.

09 46 25AM 16 What did you base that on?

09 46 27AM 17 Well, there was an EMT guy that came in
 09 46 30AM 18 and said hey, this might be something that's a
 09 46 33AM 19 problem.

09 46 33AM 20 That's not hearsay. It's not being
 09 46 35AM 21 offered for the truth that they, in fact, had
 09 46 38AM 22 carbon monoxide poisoning or they, in fact, had
 09 46 40AM 23 organophosphate poisoning.

09 46 42AM 24 THE COURT: And the reason they went to the
 09 46 46AM 25 hospital -- that is relevant to what material

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09 46 48AM 1 issue?

09 46 50AM 2 MR. LI: Causation, Your Honor. At the end of
 09 46 52AM 3 the day -- here's the problem the state's case, and
 09 46 56AM 4 this is a problem they're going to have to
 09 46 58AM 5 overcome: There were a lot of folks who went to
 09 47 01AM 6 the hospital, including the people who passed away.

09 47 03AM 7 Now, the state's saying well, it's heat
 09 47 05AM 8 stroke. That's the only thing that it could be.
 09 47 08AM 9 Well, obviously a bunch of people who were in the
 09 47 10AM 10 same room, the same sweat lodge, at the same
 09 47 13AM 11 seminar for the last five days, who share similar
 09 47 16AM 12 symptoms -- you know -- and some of whom did
 09 47 22AM 13 survive -- obviously those who survived, what their
 09 47 25AM 14 symptoms are, what they were treated for, what they
 09 47 28AM 15 actually may have suffered, is entirely relevant to
 09 47 33AM 16 what those who passed away may have suffered.

09 47 36AM 17 There are many, many medical facts that
 09 47 38AM 18 are going to come out in this case that are pointed
 09 47 41AM 19 to -- that are starting with clues like this. Six
 09 47 48AM 20 hours, five hours, into the incident, clues like
 09 47 50AM 21 this where people have symptoms that are consistent
 09 47 54AM 22 with organophosphates, among other things.

09 47 58AM 23 And so it is entirely relevant that, for
 09 48 01AM 24 instance -- you know -- Stephen Ray, a person who
 09 48 04AM 25 shows up in the hospital in a coma, is,

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09 48 09AM 1 essentially, diagnosed as not having heat stroke by
 09 48 12AM 2 his treating physician 10 days later and is
 09 48 16AM 3 diagnosed as having chemical poisoning on the time
 09 48 19AM 4 he shows up at the hospital. Because all of those
 09 48 22AM 5 facts apply directly to the cause of death of the
 09 48 25AM 6 folks who actually passed away.

09 48 27AM 7 What I find particularly difficult -- and
 09 48 31AM 8 excuse the sort of passion that I may be expressing
 09 48 36AM 9 right now. But one of the things I find rather
 09 48 38AM 10 difficult about this is we are actually using facts
 09 48 43AM 11 and medical evidence to attack a real issue in the
 09 48 47AM 12 case, which is causation. And the state is
 09 48 49AM 13 throwing up a hearsay objection to that.

09 48 51AM 14 The flip side, though, is the state wants
 09 48 53AM 15 to introduce evidence from people about how they
 09 48 57AM 16 felt about the ceremonies and why they were
 09 49 01AM 17 participating in this seminar and what their
 09 49 06AM 18 motivations were and then somehow impute that sort
 09 49 09AM 19 of mental state, a mental state, onto the
 09 49 15AM 20 decedents. They think that's okay.

09 49 17AM 21 But they don't think it's okay when we
 09 49 20AM 22 have medical facts that people are pointing to on
 09 49 23AM 23 the night of this accident that show another cause
 09 49 26AM 24 of death or potentially might be another cause of
 09 49 28AM 25 death.

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09:49:30AM 1 I'm not offering it for the truth of the
09:49:32AM 2 matter asserted, Your Honor. It's simply why did
09:49:35AM 3 you go to the hospital?

09:49:36AM 4 MR. HUGHES: Your Honor, I think that argument
09:49:38AM 5 ignores the fact -- medical facts the person's
09:49:41AM 6 physical condition, which is documented in the
09:49:43AM 7 medical records that were stipulated and admitted
09:49:45AM 8 yesterday.

09:49:46AM 9 Medical facts are relevant to causation.
09:49:49AM 10 There is no argument about that. But a person's
09:49:52AM 11 decision in the back of their mind, why did I go to
09:49:55AM 12 the hospital or why should I not go to the
09:49:57AM 13 hospital, her decision, her thought process, which
09:49:59AM 14 is what that statement arguably is being admitted
09:50:03AM 15 for if not for the truth of the matter -- her
09:50:08AM 16 thought process of why should I go or not is not
09:50:10AM 17 relevant to a material issue in the case.

09:50:15AM 18 MR. LI: Your Honor --

09:50:16AM 19 THE COURT: We're having a discussion in a
09:50:18AM 20 sense about background information. I've written
09:50:21AM 21 about that. Background information, res gestae.
09:50:25AM 22 And I made the statement somehow that if we call
09:50:28AM 23 something "background information," somehow it
09:50:30AM 24 doesn't become relevant. At the same time, you
09:50:33AM 25 have to have a context for things.

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09:50:51AM 1 And I know, Mr. Hughes, one of your main
09:50:53AM 2 concerns was the repetitive nature of it being
09:50:55AM 3 brought up.

09:50:57AM 4 MR. HUGHES: That was, Your Honor. Certainly
09:50:59AM 5 the fact it seemed like counsel was testifying in
09:51:01AM 6 the sense of asking the question over and over,
09:51:04AM 7 well, did Angel Valley mention it? Did EMS
09:51:08AM 8 mention? I think there was someone else. Did they
09:51:09AM 9 mention it? That was a concern.

09:51:11AM 10 But the other concern, Your Honor, is
09:51:13AM 11 precisely the fact that it is classic hearsay. The
09:51:16AM 12 only reason they can offer to show it's not is it
09:51:20AM 13 goes to her state of mind. Quite honestly -- I
09:51:24AM 14 won't plow the same field a second time, Your
09:51:26AM 15 Honor. I told you her state of mind, in the
09:51:30AM 16 state's opinion, is just not relevant to this
09:51:31AM 17 issue.

09:51:31AM 18 I realize there is background information
09:51:33AM 19 comes in in every case. And it should come in.
09:51:36AM 20 But to let this sort of background information,
09:51:39AM 21 which looks awfully close like a statement being
09:51:45AM 22 offered to prove the truth of the matter when a
09:51:47AM 23 limiting instruction, which is appropriate to give
09:51:50AM 24 in most cases, probably won't fix the issue.

09:51:50AM 25 That calls into question is that

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09:51:53AM 1 background information more prejudicial or does it
09:51:56AM 2 confuse the issues maybe more than its marginal
09:51:59AM 3 relevance to the background information of the
09:52:01AM 4 case?

09:52:01AM 5 Obviously the background information of
09:52:04AM 6 the case is why did she go to the hospital? That's
09:52:06AM 7 not a material issue. There is some marginal
09:52:09AM 8 relevance. But it's certainly outweighed by the
09:52:11AM 9 prejudice of letting a statement in that is such as
09:52:15AM 10 the statement that's up on the screen.

09:52:17AM 11 THE COURT: Mr. Hughes, with Ms. Phillips it
09:52:21AM 12 was on direct that -- her reason for going to the
09:52:24AM 13 hospital, as I recall, what her concern was. She
09:52:27AM 14 mentioned that on direct. It was carbon monoxide,
09:52:31AM 15 and she had the insurance, and she was going to
09:52:33AM 16 take care of it.

09:52:34AM 17 MR. HUGHES: That's correct.

09:52:36AM 18 THE COURT: Here's the thing: It has to do
09:52:38AM 19 with repetitiveness and good-faith basis. If there
09:52:41AM 20 is one question about that and it's left, then I
09:52:43AM 21 think it's a legitimate thing to ask, Mr. LI.

09:52:46AM 22 MR. LI: Thank you.

09:52:47AM 23 THE COURT: Beyond that it's just repeating a
09:52:50AM 24 theory of the case potentially and -- with a
09:52:52AM 25 witness that doesn't know. If it's a factor and

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09:52:55AM 1 sorting out why people were doing what they were
09:52:57AM 2 doing at that time, okay. It can be asked.

09:52:59AM 3 And another thing. With regard to
09:53:00AM 4 questioning, isn't it true that, or however you ask
09:53:04AM 5 a question, but I notice -- well, be careful in
09:53:11AM 6 making sure the question is not testimony. That's
09:53:13AM 7 all I'm going to say about that.

09:53:15AM 8 MR. LI: Thank you, Your Honor.

09:53:15AM 9 THE COURT: If it's truly a question. Even
09:53:17AM 10 though leading, it still has to be a question.

09:53:19AM 11 Anything else? I don't want to
09:53:23AM 12 discourage. I don't want to have bench conference
09:53:25AM 13 if we can avoid.

09:53:26AM 14 MR. LI: If we are to be limited in our
09:53:29AM 15 ability to ask that particular question because it
09:53:31AM 16 deals solely with the state of mind of a particular
09:53:34AM 17 witness, we would ask that the same rules apply to
09:53:36AM 18 the state relating to their particular state of
09:53:39AM 19 mind about why they are staying at the retreat and
09:53:43AM 20 what they ate for breakfast and all those of
09:53:46AM 21 things. I mean no disrespect. I think this can
09:53:49AM 22 all be sped along much quicker if we asked our
09:53:53AM 23 questions once and moved on.

09:53:54AM 24 THE COURT: Here's the thing: It's not
09:53:56AM 25 necessarily just one question. If somebody said

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09 53 58AM 1 well, yes. I heard that and that was a major
 09 54 01AM 2 concern, there can be other questions at that
 09 54 03AM 3 point --
 09 54 05AM 4 MR. LI: I understand.
 09 54 07AM 5 THE COURT: -- about following up. And -- I
 09 54 10AM 6 would think to some extent. Of course, when you're
 09 54 13AM 7 dealing with medical testimony, what a layperson
 09 54 16AM 8 can say even about his or her own medical condition
 09 54 19AM 9 can be an issue too.

09 54 16AM 10 But no, Mr. Li. I want to make clear I'm
 09 54 21AM 11 anticipating a lot of people won't remember that or
 09 54 23AM 12 didn't hear it or whatever. But if there is
 09 54 27AM 13 something there -- you know -- just along the lines
 09 54 31AM 14 of -- Ms. Phillips, I believe, was later asked --
 09 54 36AM 15 you know -- did it turn out to be this or whatever.

09 54 39AM 16 MR. LI: Your Honor, just the last point. One
 09 54 41AM 17 more thing that I would ask that the Court and all
 09 54 44AM 18 the parties exercise caution on is the loose,
 09 54 51AM 19 someone undisciplined use of language like
 09 54 54AM 20 "unconscious" and those very fairly specific
 09 54 59AM 21 medical ideas that most people are not going to
 09 55 01AM 22 have the foundation for.

09 55 03AM 23 I'll give one quick example relating to
 09 55 06AM 24 Ms. Phillips's testimony. And I understand I
 09 55 08AM 25 didn't handle her testimony. Perhaps Tom would be
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09 55 11AM 1 the better person. I'm standing so I'll keep
 09 55 13AM 2 talking.
 09 55 14AM 3 Ms. Phillips was a good probably 15, 20
 09 55 17AM 4 feet away from many of the people that she's
 09 55 20AM 5 describing. And it's dark. And she cannot
 09 55 24AM 6 actually see what they're doing. And she actually
 09 55 28AM 7 doesn't know what's actually taking place inside
 09 55 32AM 8 their minds. She does not have the ability to
 09 55 34AM 9 monitor them in that way.

09 55 37AM 10 And so she was able to testify and
 09 55 43AM 11 mentioned unconscious, not lucid, those sorts of
 09 55 47AM 12 things. And while I understand that lay people can
 09 55 50AM 13 make some observations, the foundation has to be
 09 55 54AM 14 laid.

09 55 55AM 15 And what I worry about and I see
 09 55 57AM 16 happening and certainly happened a lot at the
 09 55 59AM 17 404(b) hearing is questions would get asked like
 09 56 03AM 18 were you aware if anybody was unconscious? That
 09 56 06AM 19 sounds like a foundational question, but it
 09 56 10AM 20 actually isn't. It's a leading question that
 09 56 12AM 21 suggests an answer, yes or no, was somebody
 09 56 15AM 22 unconscious.

09 56 18AM 23 THE COURT: We have covered this, Mr. Li.
 09 56 20AM 24 I'll emphasize it. Unconscious cannot be just left
 09 56 25AM 25 out there like that as a question. Because I think
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09 56 28AM 1 I went through someone could be sleeping, closing
 09 56 30AM 2 eyes, resting, all that.

09 56 33AM 3 So, Mr. Hughes or Ms. Polk, please. If
 09 56 37AM 4 there is going to be some belief, a lay type
 09 56 41AM 5 observation that someone is unconscious -- you
 09 56 44AM 6 know --

09 56 46AM 7 Of course, that can be covered on
 09 56 47AM 8 cross-examination, Mr. Li, also obviously and what
 09 56 51AM 9 that really means.

09 56 52AM 10 But to just say unconscious and leave it
 09 56 54AM 11 at that, it just creates a problem. It really
 09 56 58AM 12 calls for a conclusion without knowing -- you
 09 57 01AM 13 know -- what was actually observed and went into
 09 57 03AM 14 that.

09 57 04AM 15 MR. HUGHES: Your Honor, state agrees. And we
 09 57 06AM 16 will lay appropriate foundation for any similar
 09 57 09AM 17 observations to the word "unconscious."

09 57 11AM 18 Thank you, Your Honor.

09 57 11AM 19 MR. LI: Thank you, Your Honor.

09 57 12AM 20 THE COURT: Anything else?

09 57 16AM 21 Ms. Rybar, I'm going to ask that you not
 09 57 18AM 22 put Ms. Tucker on the witness stand right away, not
 09 57 22AM 23 have her seated there. I want to cover with the
 09 57 25AM 24 jury the admonition. I indicated I wanted to do
 09 57 28AM 25 that actually daily. We didn't do it yesterday.

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09 57 31AM 1 But I want to do that, if not daily, on a
 09 57 33AM 2 pretty regular basis. Please have her remain
 09 57 35AM 3 outside and just have the jury seated.

09 57 38AM 4 MS. DO: Your Honor, can we have a few minutes
 09 57 41AM 5 before the jury comes back in?

09 57 42AM 6 THE COURT: How much time do you need?

09 57 46AM 7 MS. DO: Five minutes.

09 57 50AM 8 THE COURT: Yes. You will have that.

9 Certainly.

10 Thank you.

11 (Recess.)

12 (Proceedings continued in the presence of
 13 jury.)

10 07 49AM 14 THE COURT: The record will show the presence
 10 07 51AM 15 of the defendant, Mr. Ray, the attorneys, and the
 10 07 54AM 16 jury.

10 07 54AM 17 Ladies and gentlemen, I indicated earlier
 10 07 58AM 18 that I wanted to address you really every morning
 10 07 59AM 19 about whether or not there are any concerns with
 10 08 01AM 20 the admonition. Didn't do that yesterday, and I
 10 08 04AM 21 don't know that I'll do it every day because I
 10 08 06AM 22 think you all know if anything comes up, you need
 10 08 09AM 23 to give me a note and proceed just as that one
 10 08 12AM 24 juror did on that one instance.

10 08 14AM 25 But I do want to check periodically, and

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10 08 17AM 1 it may be daily and maybe not quite daily. But has
 10 08 20AM 2 anybody had any kind of issue arise with regard to
 10 08 23AM 3 the admonition, somebody trying to approach you,
 10 08 26AM 4 say something to you inadvertently, catch something
 10 08 29AM 5 on the media? Has anything like that happened?
 10 08 32AM 6 Okay. I don't see any of your hands.
 10 08 34AM 7 And I just want to give you a little bit
 10 08 36AM 8 of advance instruction as to what's going to
 10 08 43AM 9 happen. There is going to be a witness taken in a
 10 08 46AM 10 different order. So the witness who was on the
 10 08 48AM 11 stand yesterday who had started -- Miss Haley -- is
 10 08 54AM 12 not going to continue right now. There is going to
 10 08 56AM 13 be another witness who is going to be testifying,
 10 09 00AM 14 so just be prepared for that. The other witness's
 10 09 04AM 15 testimony will resume, but there will be a
 10 09 06AM 16 different witness who will start out.
 10 09 08AM 17 And, Ms. Polk, will you call your next
 10 09 10AM 18 witness, please.
 10 09 11AM 19 MS. POLK: Yes. Thank you, Your Honor. The
 10 09 12AM 20 state calls Laura Tucker, please.
 10 10 11AM 21 THE COURT: Ms. Tucker, would you please step
 10 10 13AM 22 to the front of the courtroom where the bailiff is
 10 10 16AM 23 directing you and then raise your right hand to be
 10 10 18AM 24 sworn by the clerk.
 10 10 20AM 25 LAURA ANNE TUCKER,
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10 10 20AM 1 having been first duly sworn upon her oath to tell
 10 10 20AM 2 the truth, the whole truth, and nothing but the
 10 10 28AM 3 truth, testified as follows:
 10 10 28AM 4 THE COURT: Ma'am, please be seated here to my
 10 10 31AM 5 right at the witness stand.
 10 10 51AM 6 And, Ms. Tucker, could you please begin
 10 10 52AM 7 by stating your full name and spelling your first
 10 10 56AM 8 name.
 10 10 56AM 9 THE WITNESS: My name is Laura Anne Tucker,
 10 10 56AM 10 L-A-U-R-A.
 10 11 01AM 11 THE COURT: And your middle name is spelled?
 10 11 02AM 12 THE WITNESS: Anne, A-n-n-e.
 10 11 05AM 13 THE COURT: Thank you, ma'am.
 10 11 06AM 14 Miss Polk.
 10 11 07AM 15 MS. POLK: Thank you, Your Honor.
 10 11 07AM 16 DIRECT EXAMINATION
 10 11 07AM 17 BY MS. POLK:
 10 11 08AM 18 Q. Good morning, Ms. Tucker.
 10 11 10AM 19 A. Good morning.
 10 11 11AM 20 Q. Will you tell the jury where you live,
 10 11 13AM 21 the community.
 10 11 17AM 22 A. I live in Kelowna, British Columbia.
 10 11 20AM 23 Q. And what part of British Columbia is
 10 11 20AM 24 that?
 10 11 21AM 25 A. That's in the interior.
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10 11 22AM 1 Q. Okay. And is that Canada?
 10 11 23AM 2 A. Yes.
 10 11 24AM 3 Q. Are you married, Ms. Tucker?
 10 11 27AM 4 A. No, I am not.
 10 11 28AM 5 Q. And will you describe for the jury what
 10 11 31AM 6 your education level is.
 10 11 33AM 7 A. I'm a University graduate, and I have a
 10 11 36AM 8 degree in -- bachelor of education and a bachelor
 10 11 38AM 9 of science.
 10 11 39AM 10 Q. Are you currently employed?
 10 11 41AM 11 A. I'm self-employed.
 10 11 42AM 12 Q. As what?
 10 11 43AM 13 A. I am a consultant in the automotive
 10 11 46AM 14 industry.
 10 11 46AM 15 Q. And what does that entail?
 10 11 47AM 16 A. It entails working with car dealerships
 10 11 50AM 17 and helping them with their service businesses.
 10 11 53AM 18 Q. How long have you done that?
 10 11 54AM 19 A. Just about 10 years.
 10 11 56AM 20 Q. At some point in your life, Ms. Tucker,
 10 12 01AM 21 did you come to know a man named James Ray?
 10 12 05AM 22 A. Yes, I did.
 10 12 08AM 23 Q. How did you meet him?
 10 12 07AM 24 A. I -- I met him when I was first exposed
 10 12 12AM 25 to him in the movie The Secret, and I enrolled in
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10 12 16AM 1 his Harmonic Wealth weekend.
 10 12 18AM 2 Q. Where was it that you saw the movie
 10 12 20AM 3 called "The Secret"?
 10 12 21AM 4 A. At home on a DVD.
 10 12 23AM 5 Q. What was it about The Secret that made
 10 12 26AM 6 you want to enroll in a seminar taught by him?
 10 12 29AM 7 A. Well, the way that -- you know -- the
 10 12 32AM 8 whole approach to thinking or being -- you know --
 10 12 38AM 9 appealed to me in terms of -- you know -- I've had
 10 12 42AM 10 times in my life that were extremely challenging.
 10 12 45AM 11 I've had times in my life that were extremely easy.
 10 12 48AM 12 And it helped to make some sense of how I
 10 12 53AM 13 could change the way I thought about things or
 10 12 56AM 14 approach things and create what I wanted to create
 10 13 01AM 15 as opposed to having it created for me.
 10 13 04AM 16 Q. You mentioned that you enrolled in a
 10 13 05AM 17 Harmonic Wealth weekend?
 10 13 07AM 18 A. I did.
 10 13 08AM 19 Q. Was that a free event?
 10 13 08AM 20 A. No, it was not.
 10 13 10AM 21 Q. When was it that you went to Harmonic
 10 13 14AM 22 Wealth?
 10 13 14AM 23 A. I went in June 2008.
 10 13 16AM 24 Q. And that was a seminar put on by Mr. Ray?
 10 13 20AM 25 A. It was.
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10 13 20AM 1 Q. And is that when you personally met him?

10 13 22AM 2 A. I can't say I personally met him at that

10 13 25AM 3 time. I mean, it was a large -- very large group

10 13 28AM 4 that was there.

10 13 31AM 5 Q. About how many people were there?

10 13 32AM 6 A. Around 500.

10 13 34AM 7 Q. Where was it held?

10 13 37AM 8 A. It was held in Oakland, California.

10 13 40AM 9 Q. Do you recognize Mr. Ray here in the

10 13 43AM 10 courtroom?

10 13 46AM 11 A. I do.

10 13 49AM 12 Q. Will you point him out for us, please.

10 13 52AM 13 A. He's seated right over there.

10 13 55AM 14 Q. And can you distinguish him from the

10 13 58AM 15 other gentlemen that are seated at that table?

10 14 01AM 16 A. Sure.

10 14 04AM 17 Q. Point out to us what he's wearing.

10 14 07AM 18 A. Oh. He's wearing a blue suit and a blue

10 14 10AM 19 shirt, no tie.

10 14 13AM 20 MS. POLK: For the record, Your Honor, may the

10 14 16AM 21 record reflect that the witness has identified

10 14 19AM 22 Mr. Ray?

10 14 22AM 23 THE COURT: It will.

10 14 25AM 24 Q. BY MS. POLK: After you attended Harmonic

10 14 28AM 25 Wealth weekend, did you attend additional seminars

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10 14 31AM 1 put on by Mr. Ray?

10 14 34AM 2 A. I did.

10 14 37AM 3 Q. How many more?

10 14 40AM 4 A. By the time I got to the Spiritual

10 14 43AM 5 Warrior, I had attended all of them.

10 14 46AM 6 Q. Do you know how many all of them would

10 14 49AM 7 be?

10 14 52AM 8 A. I'd say half a dozen or so.

10 14 55AM 9 Q. Were they free?

10 14 58AM 10 A. No, they were not.

10 15 01AM 11 Q. Will you tell the jury the names of the

10 15 04AM 12 various seminars that you attended.

10 15 07AM 13 A. I attended the Harmonic Wealth weekend,

10 15 10AM 14 followed by Quantum Leap, then Creating Absolute

10 15 13AM 15 Wealth. Then the following spring I attended

10 15 16AM 16 Modern Magic and a course called "Practical

10 15 19AM 17 Mysticism" and then finally Spiritual Warrior.

10 15 22AM 18 Q. Over what period of time did you attend

10 15 25AM 19 these seminars?

10 15 28AM 20 A. Well, I started in June 2008, and I

10 15 31AM 21 finished in October of 2009.

10 15 34AM 22 Q. In October of 2009 was the Spiritual

10 15 37AM 23 Warrior a 2009 seminar?

10 15 40AM 24 A. Yes.

10 15 43AM 25 Q. Why did you enroll in that Spiritual

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10 15 17AM 1 Warrior seminar?

10 15 18AM 2 A. Well, I was on a track. I wanted to --

10 15 21AM 3 my personal development was important to me at that

10 15 24AM 4 time. It was a high priority. And I wanted to

10 15 27AM 5 complete the entire series.

10 15 30AM 6 Q. What does that mean, complete the series?

10 15 33AM 7 A. Well, there were no other additional

10 15 36AM 8 courses beyond that.

10 15 39AM 9 Q. Is there a recommended order that you

10 15 42AM 10 take these courses in?

10 15 45AM 11 A. I don't know that I remember

10 15 48AM 12 specifically. You know, the Harmonic Wealth

10 15 51AM 13 weekend was definitely the first. And then from

10 15 54AM 14 there you could go -- you know -- in order or not

10 15 57AM 15 in order. But, I mean, a lot of it was dictated by

10 16 00AM 16 the timing for me. You know, I simply took what

10 16 03AM 17 was next.

10 16 06AM 18 Q. Will you tell the jury approximately when

10 16 09AM 19 it was that you signed up to participate in

10 16 12AM 20 Spiritual Warrior 2009?

10 16 15AM 21 A. I believe it was in April at the Modern

10 16 18AM 22 Magic event.

10 16 21AM 23 Q. Of 2009?

10 16 24AM 24 A. Yes.

10 16 27AM 25 Q. How much did you pay to attend Spiritual

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10 16 30AM 1 Warrior 2009?

10 16 33AM 2 A. I purchased it within a package of three

10 16 36AM 3 events.

10 16 39AM 4 Q. Okay. What was the total cost of the

10 16 42AM 5 package?

10 16 45AM 6 A. The total cost was around \$15,000. It

10 16 48AM 7 may have been more.

10 16 51AM 8 MS. POLK: And, Your Honor, may I approach the

10 16 54AM 9 witness?

10 16 57AM 10 THE COURT: Yes.

10 17 00AM 11 Q. BY MS. POLK: Ms. Tucker, I'm going to

10 17 03AM 12 show you what's been marked as Exhibit 226.

10 17 06AM 13 MS. DO: Your Honor, may I see the exhibit,

10 17 09AM 14 please?

10 17 12AM 15 THE COURT: Yes, you may.

10 17 15AM 16 MS. DO: And may we approach?

10 17 18AM 17 THE COURT: No. Not at this time, Counsel.

10 17 21AM 18 Not at this point anyway.

10 17 24AM 19 MS. DO: Thank you.

10 17 27AM 20 THE COURT: Thank you. Okay.

10 17 30AM 21 Q. BY MS. POLK: If you will just take a

10 17 33AM 22 moment to look at that, Ms. Tucker, to see if it

10 17 36AM 23 refreshes your recollection as to how much you paid

10 17 39AM 24 to attend Spiritual Warrior 2009 as part of that

10 17 42AM 25 package.

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10:18:33AM 1 **A. Sorry. It's been a long time.**
 10:18:36AM 2 **Q. Take your time.**
 10:18:42AM 3 **A. Okay. Yeah. Here it is. Okay.**
 10:18:45AM 4 **Q. You've now had a chance to refresh your**
 10:18:47AM 5 **recollection as to how much you paid for the**
 10:18:51AM 6 **package that included the Spiritual Warrior?**
 10:18:51AM 7 **A. Yes.**
 10:18:51AM 8 **Q. And how much was that?**
 10:18:52AM 9 **A. It was \$15,390.**
 10:19:01AM 10 **Q. Do you recall, Ms. Tucker, how it was**
 10:19:04AM 11 **that you got from Canada to Sedona, Arizona, in**
 10:19:08AM 12 **October of 2009?**
 10:19:09AM 13 **A. I do.**
 10:19:10AM 14 **Q. How was that?**
 10:19:11AM 15 **A. I flew from Kelowna to Calgary and then**
 10:19:16AM 16 **Calgary to Phoenix.**
 10:19:16AM 17 **Q. How did you get from Phoenix up to here?**
 10:19:21AM 18 **A. Took a shuttle.**
 10:19:22AM 19 **Q. Do you recall when it was that you**
 10:19:24AM 20 **arrived?**
 10:19:24AM 21 **A. I do.**
 10:19:25AM 22 **Q. And when did you arrive?**
 10:19:27AM 23 **A. I arrived on -- it was the Saturday --**
 10:19:30AM 24 **the day that the event started.**
 10:19:31AM 25 **Q. Would that be October 3rd, 2009?**
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10:19:33AM 1 **A. Yes.**
 10:19:34AM 2 **Q. Do you recall the name of the location**
 10:19:36AM 3 **where this seminar was held?**
 10:19:39AM 4 **A. It was held at Angel Valley.**
 10:19:44AM 5 **Q. Upon your arrival, was there a**
 10:19:47AM 6 **registration process that you went through?**
 10:19:49AM 7 **A. There was.**
 10:20:01AM 8 **MS. POLK: May I approach the witness,**
 10:20:02AM 9 **Your Honor?**
 10:20:02AM 10 **THE COURT: Yes.**
 10:20:03AM 11 **Q. BY MS. POLK: I'm going to show you now**
 10:20:04AM 12 **Exhibit 224.**
 10:20:08AM 13 **MS. DO: Your Honor, the defense will**
 10:20:11AM 14 **stipulate to the admission of 224.**
 10:20:15AM 15 **THE COURT: 224 is admitted.**
 10:20:22AM 16 **(Exhibit 224 admitted.)**
 10:20:26AM 17 **MS. POLK: I'll take that back from you.**
 10:20:26AM 18 **Q. Did you fill out some forms during that**
 10:20:28AM 19 **registration process?**
 10:20:30AM 20 **A. Yes, I did.**
 10:20:31AM 21 **Q. Do you recall what you filled out?**
 10:20:35AM 22 **A. I filled out and I signed a waiver.**
 10:20:35AM 23 **Q. Do you know how many documents you**
 10:20:37AM 24 **signed?**
 10:20:38AM 25 **A. Well, I see two there that I remember.**
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10:20:48AM 1 **MS. POLK: Your Honor, the state would move**
 10:20:52AM 2 **for the admission of 225 as well.**
 10:20:55AM 3 **MS. DO: Defense stipulates.**
 10:20:58AM 4 **THE COURT: 225 is admitted.**
 10:21:02AM 5 **(Exhibit 225 admitted.)**
 10:21:02AM 6 **Q. BY MS. POLK: You recall signing two**
 10:21:04AM 7 **waivers?**
 10:21:04AM 8 **A. Well, the one waiver, and there was that**
 10:21:06AM 9 **publicity release.**
 10:21:08AM 10 **Q. Let me just approach and show you**
 10:21:10AM 11 **Exhibit 225 and see if that helps you remember.**
 10:21:15AM 12 **A. Okay.**
 10:21:19AM 13 **Okay. Yes. Yes.**
 10:21:19AM 14 **Q. Do you recall signing two different**
 10:21:21AM 15 **waivers?**
 10:21:22AM 16 **A. Yeah. I do now.**
 10:21:25AM 17 **Q. One with Angel Valley and one with James**
 10:21:29AM 18 **Ray International?**
 10:21:31AM 19 **A. Yes.**
 10:21:32AM 20 **Q. And I'm going to put up on the overhead**
 10:21:36AM 21 **Exhibit 224 and turn to the third page of this**
 10:21:39AM 22 **exhibit. Ms. Tucker, is that your signature on**
 10:21:44AM 23 **this exhibit?**
 10:21:45AM 24 **A. It is.**
 10:21:45AM 25 **Q. Who was it who witnessed your signature?**
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10:21:48AM 1 **A. I really don't remember.**
 10:21:52AM 2 **Q. Do you remember someone named Linda**
 10:21:56AM 3 **Andresano?**
 10:21:56AM 4 **A. Vaguely.**
 10:21:57AM 5 **Q. What information was taken from you about**
 10:22:01AM 6 **your health, if any, at the time that you signed**
 10:22:04AM 7 **this waiver?**
 10:22:04AM 8 **A. I don't remember being asked any**
 10:22:09AM 9 **questions about my health.**
 10:22:11AM 10 **Q. How about at any point during the**
 10:22:13AM 11 **Spiritual Warrior seminar? Did anybody take**
 10:22:15AM 12 **information about your health from you?**
 10:22:17AM 13 **A. No.**
 10:22:17AM 14 **Q. And in order to participate in this**
 10:22:19AM 15 **seminar, did you go to a doctor and have a physical**
 10:22:23AM 16 **examination done?**
 10:22:23AM 17 **A. I did not.**
 10:22:24AM 18 **Q. Was that not asked for?**
 10:22:26AM 19 **A. No, it was not.**
 10:22:28AM 20 **Q. During this registration process, was any**
 10:22:32AM 21 **information taken from you?**
 10:22:33AM 22 **A. Not that I remember.**
 10:22:36AM 23 **Q. And during this registration process, or**
 10:22:41AM 24 **prior to, did you know that one of the events that**
 10:22:43AM 25 **you would be participating in would be a sweat**
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1 lodge ceremony?
 2 **A. I knew a little. I didn't make it a**
 3 **practice to try and find out in advance what we**
 4 **were going to be doing.**
 5 **Q. How was it that you knew a little about**
 6 **it?**
 7 **A. I just heard reference to a sweat lodge.**
 8 **Q. When you signed this form, did anybody**
 9 **talk to you about the upcoming events of the week?**
 10 **A. No.**
 11 **Q. Did anybody talk to you specifically**
 12 **about the sweat lodge ceremony?**
 13 **A. No.**
 14 **Q. Had you ever been inside a sweat lodge**
 15 **before?**
 16 **A. No, I had not.**
 17 **Q. Now, jumping into the events of the week,**
 18 **Ms. Tucker, did you participate in a game led by**
 19 **Mr. Ray called the "Samurai Game"?**
 20 **A. I did.**
 21 **Q. And the jury has already heard a little**
 22 **bit about it. I won't make you go through the**
 23 **rules of the game. But tell the jury what happened**
 24 **to you during that game.**
 25 **A. Well, we were split into two teams. And**
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1 **I was given -- by the leader of my team I was given**
 2 **a position and --**
 3 **Have you been through the whole game in**
 4 **terms of how it's structured?**
 5 **Q. The jury has. Yes.**
 6 **A. Yes. Okay. The jury has.**
 7 **So I was made -- I was given the role of**
 8 **the priest in this game. And prior to the game**
 9 **beginning, we were talking strategy and so forth.**
 10 **And I thought that because of what I understood of**
 11 **the rules of the game that it would be okay for me**
 12 **to approach James and ask him a question.**
 13 **Q. Who is James?**
 14 **A. Mr. Ray. I apologize.**
 15 **Q. Okay.**
 16 **A. So I did. I approached Mr. Ray to ask**
 17 **him a question. And I don't remember what the**
 18 **question was. It was something practical about the**
 19 **game itself. We were trying to figure things out.**
 20 **And I was the first person in the game to, quote,**
 21 **unquote, die.**
 22 **Q. How did that happen, that you knew that**
 23 **you were to die?**
 24 **A. He yelled at me the word "die." And that**
 25 **had been explained earlier in the game. And I was**
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1 **surprised. I didn't realize the game was on. But**
 2 **I hit the floor.**
 3 **Q. What was your understanding of what**
 4 **you're role was as a priest?**
 5 **A. That through the course of the game that**
 6 **I could be sent to ask questions.**
 7 **Q. Sent by your team?**
 8 **A. Yes.**
 9 **Q. Who was your team leader?**
 10 **A. My team leader was Greg Hartle.**
 11 **Q. After Mr. Ray told you to die, what did**
 12 **you do?**
 13 **A. I lay down on the floor.**
 14 **Q. Right where you were?**
 15 **A. Right where I was.**
 16 **Q. What did you understand that you had to**
 17 **do once you were dead?**
 18 **A. To lie there and not move.**
 19 **Q. In terms of logistics of the room, where**
 20 **were you?**
 21 **A. Pretty much front and center, in the**
 22 **middle.**
 23 **Q. Did you stay in that same position where**
 24 **you laid down initially?**
 25 **A. I did initially. And then when things**
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1 **changed, I think it was time for the dinner break.**
 2 **Someone came and moved me out of the way.**
 3 **Q. Your position, where you lay down to die,**
 4 **were you in the middle of the game?**
 5 **A. I was in the middle of the seminar room.**
 6 **Q. Where was the game taking place?**
 7 **A. All around me.**
 8 **Q. Did you -- were you able to watch what**
 9 **was going on?**
 10 **A. No.**
 11 **Q. Why not?**
 12 **A. I had my eyes closed.**
 13 **Q. That was one of the rules?**
 14 **A. It was.**
 15 **Q. How did you feel when you found out you**
 16 **were dead already?**
 17 **A. I was a little disappointed with myself.**
 18 **Q. Why disappointed with yourself?**
 19 **A. Well, I didn't expect it. And -- you**
 20 **know -- understanding the context of it, I felt**
 21 **like I had let my team down.**
 22 **Q. Explain to the jury this context that**
 23 **made you feel like you had let your team down by**
 24 **dying.**
 25 **A. Well, I mean, I could compare it to a**
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10 27 25AM 1 chess game or something like that where -- you
 10 27 27AM 2 know -- you're a player in the game and now you're
 10 27 30AM 3 out. So I didn't like that.
 10 27 33AM 4 Q. Do you understand what the purpose of
 10 27 36AM 5 this game was?
 10 27 43AM 6 A. I'm not so sure that I do. I mean, I
 10 27 46AM 7 think -- you know -- teamwork and -- you know -- I
 10 27 49AM 8 was not able to participate from where I was. So I
 10 27 53AM 9 can't claim to have a full perspective of what was
 10 27 57AM 10 going on. I think like in any other similar game,
 10 28 04AM 11 the intent was to -- you know -- put people in a
 10 28 07AM 12 situation where they had to be -- you know -- in a
 10 28 14AM 13 situation where you were going to act and make
 10 28 18AM 14 decisions and reveal some of your character and
 10 28 19AM 15 then learn from that.
 10 28 20AM 16 Q. Okay. Did you learn from that?
 10 28 21AM 17 A. I did.
 10 28 23AM 18 Q. What did you learn?
 10 28 24AM 19 A. I learned that before I play any game, I
 10 28 27AM 20 always find out what all the rules are.
 10 28 32AM 21 Q. How long did you lay there dead?
 10 28 36AM 22 A. I would say it would amount to several
 10 28 38AM 23 hours.
 10 28 39AM 24 Q. How did you feel?
 10 28 42AM 25 A. Well, for a good amount of the time I
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10 28 46AM 1 felt quite impatient. And it was a long time to be
 10 28 52AM 2 still. It was a frustrating experience for the
 10 28 58AM 3 most part.
 10 28 59AM 4 Q. Was it difficult to lie still that long?
 10 29 02AM 5 A. It was.
 10 29 02AM 6 Q. Were you ever allowed to get up?
 10 29 04AM 7 A. Well, we moved from the seminar room to
 10 29 13AM 8 the -- I'm not sure what to call it. A big tent.
 10 29 19AM 9 You know. So at that point I was led there and
 10 29 24AM 10 then laid down again.
 10 29 26AM 11 Q. Was there a venue called the "Heart
 10 29 32AM 12 Pavilion"? Was that the big tent?
 10 29 34AM 13 A. I think so.
 10 29 35AM 14 Q. Okay. How many hours into it were you
 10 29 37AM 15 taken from one venue and taken to the big tent?
 10 29 40AM 16 A. It was probably at least an hour and a
 10 29 43AM 17 half, maybe longer.
 10 29 44AM 18 Q. Do you know, Ms. Tucker, how many other
 10 29 47AM 19 people were pronounced dead by Mr. Ray during this
 10 29 50AM 20 exercise?
 10 29 50AM 21 A. No.
 10 29 53AM 22 Q. What time -- did you get dinner that
 10 29 58AM 23 night?
 10 29 59AM 24 A. I did not.
 10 30 00AM 25 Q. Were you allowed to use the rest room?
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10 30 02AM 1 A. I didn't need to during that period.
 10 30 08AM 2 Q. Okay. Were you aware that others were
 10 30 10AM 3 getting dinner?
 10 30 11AM 4 A. I was -- yes. I was aware of that.
 10 30 18AM 5 Q. How did you learn that you were not going
 10 30 19AM 6 to get dinner?
 10 30 20AM 7 A. The person who came to move me, he --
 10 30 31AM 8 well, he came and I actually had my pen and
 10 30 34AM 9 notebook in my hand still. And so I scribbled "do
 10 30 41AM 10 I get to eat" because I knew they were going for
 10 30 44AM 11 dinner.
 10 30 45AM 12 Q. And did that person talk to you?
 10 30 46AM 13 A. No, he didn't, but he saw what I wrote,
 10 30 49AM 14 and I believe he asked Mr. Ray.
 10 30 54AM 15 Q. Was an answer given back to you?
 10 30 57AM 16 A. Yes. That no, I didn't get dinner.
 10 31 00AM 17 Q. Why were you scribbling instead of just
 10 31 03AM 18 talking to each other?
 10 31 04AM 19 A. Well, I was still playing by the rules of
 10 31 09AM 20 the game.
 10 31 10AM 21 Q. Are you referring to the code of silence?
 10 31 12AM 22 A. Yes.
 10 31 12AM 23 Q. Do you know about what time it was that
 10 31 19AM 24 you were finally allowed to get up off of the
 10 31 22AM 25 ground?
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10 31 22AM 1 A. At the end of the game?
 10 31 24AM 2 Q. Yes.
 10 31 25AM 3 A. I can't say that I do.
 10 31 26AM 4 Q. At any point were you given a blanket or
 10 31 31AM 5 something to lie on?
 10 31 33AM 6 A. There was a blanket put over us. I don't
 10 31 35AM 7 remember if there was one on the ground between me
 10 31 38AM 8 and the ground. I think there was.
 10 31 40AM 9 Q. How did you learn that the game was over
 10 31 44AM 10 and you were allowed to get up?
 10 31 46AM 11 A. You could just tell from what I could
 10 31 48AM 12 hear.
 10 31 50AM 13 Q. After that game ended, what was the next
 10 31 54AM 14 activity?
 10 31 55AM 15 A. We were going out on the Vision Quest.
 10 31 59AM 16 Q. Did you participate in the Vision Quest?
 10 32 01AM 17 A. I did.
 10 32 02AM 18 Q. Before you started the Vision Quest, when
 10 32 04AM 19 was the last time you had had anything to eat or
 10 32 06AM 20 drink?
 10 32 07AM 21 A. I hadn't had anything to eat since lunch.
 10 32 11AM 22 But what I did do once the game was finished, I was
 10 32 17AM 23 very thirsty. And so I needed to go and get my bag
 10 32 22AM 24 and get my belongings. And so I went -- I wanted
 10 32 28AM 25 water. I didn't know where my water jug was. And
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10:32:32AM **1 I found somebody who had a large amount of water**
 10:32:34AM **2 and I asked him if he would share with me, and he**
 10:32:37AM **3 did.**
 10:32:40AM **4 Q. Then you were led out on your Vision**
 10:32:43AM **5 Quest?**
 10:32:46AM **6 A. Yes.**
 10:32:49AM **7 Q. Did you understand prior to the Vision**
 10:32:52AM **8 Quest what would be happening on the Vision Quest?**
 10:32:55AM **9 A. Yes.**
 10:32:58AM **10 Q. And tell the jury what your understanding**
 10:33:01AM **11 of that was.**
 10:33:04AM **12 A. My understanding was that we would be**
 10:33:07AM **13 going out into -- onto the property and into the**
 10:33:10AM **14 desert. It was -- you know -- not a long walk**
 10:33:13AM **15 away. But we were each given our own area. That**
 10:33:16AM **16 it was our time to reflect on our work of the week**
 10:33:19AM **17 leading up to that. And it was a time of solitude**
 10:33:22AM **18 and reflection.**
 10:33:25AM **19 Q. How many hours were you out on your spot**
 10:33:28AM **20 in the Vision Quest?**
 10:33:31AM **21 A. It was -- it had to be around 36 hours.**
 10:33:34AM **22 We went in the night following the Samurai Game,**
 10:33:37AM **23 slept the first night, and then an entire 24-hour**
 10:33:40AM **24 period from there.**
 10:33:43AM **25 Q. Did you get any food during that**
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10:33:52AM **1 36 hours?**
 10:33:55AM **2 A. No.**
 10:33:58AM **3 Q. Did you get any water during that**
 10:34:01AM **4 36 hours?**
 10:34:04AM **5 A. No.**
 10:34:07AM **6 Q. The jury has already heard about the**
 10:34:10AM **7 circle for the medicine wheel. Did you build a**
 10:34:13AM **8 medicine wheel for yourself?**
 10:34:16AM **9 A. I did.**
 10:34:19AM **10 Q. Did you stay in it the whole time?**
 10:34:22AM **11 A. I did.**
 10:34:25AM **12 Q. What was the reason for staying inside**
 10:34:28AM **13 the medicine wheel the whole time?**
 10:34:31AM **14 A. I don't really remember a specific -- you**
 10:34:34AM **15 know -- reason.**
 10:34:37AM **16 Q. What was your reason for obeying these**
 10:34:40AM **17 rules?**
 10:34:43AM **18 A. Well, the whole Vision Quest was not**
 10:34:46AM **19 unattractive to me. I like being outside. I like**
 10:34:49AM **20 being on -- having my own time. And it didn't seem**
 10:34:52AM **21 like a big deal to stay put for that period of**
 10:34:55AM **22 time. I got to create my own space, have my stuff**
 10:34:58AM **23 there with me. And that's what I did.**
 10:35:01AM **24 Q. When that Vision Quest ended on Thursday**
 10:35:04AM **25 morning, where did you go?**

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10:35:09AM **1 A. I believe I first went back to my -- you**
 10:35:12AM **2 know -- to the room and dropped off my things and**
 10:35:15AM **3 went for breakfast.**
 10:35:18AM **4 Q. Did you get any water when you first came**
 10:35:21AM **5 in?**
 10:35:24AM **6 A. Oh, I'm sure I did.**
 10:35:27AM **7 Q. After breakfast, where did you go?**
 10:35:30AM **8 A. Probably back to the room for a bit and**
 10:35:33AM **9 then to the classroom.**
 10:35:36AM **10 Q. That Thursday morning, then, you gathered**
 10:35:39AM **11 with the other participants in a classroom?**
 10:35:42AM **12 A. Uh-huh.**
 10:35:45AM **13 Q. And did Mr. Ray address you then?**
 10:35:48AM **14 A. Uh-huh. Yes. Sorry.**
 10:35:51AM **15 Q. Do you recall what other activities**
 10:35:54AM **16 occurred that morning prior to the beginning of the**
 10:35:57AM **17 sweat lodge?**
 10:36:00AM **18 A. Outside of being in the room and --**
 10:36:03AM **19 Q. Was there another lecture, for example?**
 10:36:06AM **20 A. I believe there was -- there may have**
 10:36:09AM **21 been a bit of lecture, but it was primarily a**
 10:36:12AM **22 question-and-answer period.**
 10:36:15AM **23 Q. Did you know what was coming up next at**
 10:36:18AM **24 that point?**
 10:36:21AM **25 A. No. Not really. I wasn't giving it much**
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10:36:24AM **1 thought.**
 10:36:27AM **2 Q. Did you give any thought to the need to**
 10:36:30AM **3 hydrate after being on that fast for 36 hours?**
 10:36:33AM **4 A. Yes.**
 10:36:36AM **5 Q. And what did you do about that?**
 10:36:39AM **6 A. Well, I drank all kinds of water.**
 10:36:42AM **7 Q. And was Mr. Ray telling you to drink**
 10:36:45AM **8 water?**
 10:36:48AM **9 A. Yes, he was.**
 10:36:51AM **10 Q. Did you understand when you were being**
 10:36:54AM **11 told to hydrate that another challenge was coming**
 10:36:57AM **12 up?**
 10:37:00AM **13 A. Yes.**
 10:37:03AM **14 Q. When was it, Miss Tucker, that you**
 10:37:06AM **15 learned about this challenge coming up involving**
 10:37:09AM **16 heat?**
 10:37:12AM **17 A. It would have been -- you know -- there**
 10:37:15AM **18 were other references to it beforehand. But it**
 10:37:18AM **19 would have been within the open-frame session.**
 10:37:21AM **20 Q. Will you tell the jury what you recall**
 10:37:24AM **21 being told by Mr. Ray during that open session**
 10:37:27AM **22 prior to this sweat lodge ceremony.**
 10:37:30AM **23 A. I remember being told that it was going**
 10:37:33AM **24 to be -- you know -- very hot. And I definitely**
 10:37:36AM **25 remember being told to hydrate, hydrate, hydrate,**

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10:37:31AM 1 which I did. And it was described to us in terms
 10:37:38AM 2 of going into -- you know -- a large tent together.
 10:37:44AM 3 And -- you know -- I don't remember a lot
 10:37:50AM 4 of the specifics. I was not focused in on -- you
 10:37:56AM 5 know -- every word that Mr. Ray was saying. But
 10:38:02AM 6 the impression that was created for me was that we
 10:38:08AM 7 would have -- it was to be a shared group
 10:38:14AM 8 experience, that it was going to be extremely hot,
 10:38:20AM 9 that we should hydrate, and that it was to be
 10:38:26AM 10 something we did together as a group to celebrate
 10:38:32AM 11 the work of the week.

10:38:38AM 12 Q. What was your mind-set as you, then,
 10:38:44AM 13 after that briefing, entered the sweat lodge?

10:38:50AM 14 A. Well, I think at that point -- you
 10:38:56AM 15 know -- it's hard to say in hindsight. At that
 10:39:02AM 16 point -- you know -- I was focused on -- you
 10:39:08AM 17 know -- the week was almost over. We had one more
 10:39:14AM 18 thing to do together. I kept a couple of my
 10:39:20AM 19 friends close. And -- you know -- I could see --
 10:39:26AM 20 you know -- everything that was there around me.

10:39:32AM 21 I was listening and paying attention --
 10:39:38AM 22 you know -- as best I could. But -- you know -- I
 10:39:44AM 23 was -- you know -- distracted, and I was nervous.

10:39:50AM 24 Q. Why were you nervous?

10:39:56AM 25 A. I really -- I can't really say

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10:39:22AM 1 specifically why. I don't know why. It was a very
 10:39:28AM 2 different thing that we were about to do. And
 10:39:34AM 3 usually at an event there would be a physical
 10:39:40AM 4 challenge and I would sometimes get nervous before.
 10:39:46AM 5 So that's where I was at.

10:39:52AM 6 Q. In the briefing or at any time prior to
 10:39:58AM 7 entering into the sweat lodge, did Mr. Ray tell you
 10:40:04AM 8 what to do if somebody near you got sick?

10:40:10AM 9 A. No. Not that I recall.

10:40:16AM 10 Q. Had you thought about what to do if
 10:40:22AM 11 somebody in the sweat lodge got sick?

10:40:28AM 12 A. No.

10:40:34AM 13 Q. Did you anticipate -- were you expecting
 10:40:40AM 14 that anybody would get sick?

10:40:46AM 15 A. Absolutely not.

10:40:52AM 16 Q. Did you believe that the sweat lodge
 10:40:58AM 17 would be a dangerous event?

10:41:04AM 18 A. Absolutely not.

10:41:10AM 19 Q. And why not?

10:41:16AM 20 A. I had no expectation that we were going
 10:41:22AM 21 to be in a situation where anyone would come to
 10:41:28AM 22 harm.

10:41:34AM 23 Q. Was any emergency plan ever discussed
 10:41:40AM 24 with the participants by Mr. Ray?

10:41:46AM 25 A. No.

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10:40:44AM 1 Q. Did you know whether there was a nurse on
 10:40:49AM 2 site?

10:40:55AM 3 A. To my knowledge, there was no nurse on
 10:40:59AM 4 site.

10:41:05AM 5 Q. Did anyone ever point out to you that
 10:41:11AM 6 this person was a nurse and to go to them if you
 10:41:17AM 7 needed anything?

10:41:23AM 8 A. Not that I recall.

10:41:29AM 9 Q. Let's talk about, then, after the
 10:41:35AM 10 briefing -- let me ask you this: Did you ask
 10:41:41AM 11 anything during the briefing of Mr. Ray about the
 10:41:47AM 12 event?

10:41:53AM 13 A. I did.

10:41:59AM 14 Q. What did you ask?

10:42:05AM 15 A. I asked him what he thought we should
 10:42:11AM 16 wear.

10:42:17AM 17 Q. And what was the answer?

10:42:23AM 18 A. I believe my question was -- you know --
 10:42:29AM 19 it was going to be hot. We were going to do
 10:42:35AM 20 something that the only thing I could compare it to
 10:42:41AM 21 in my previous experience was a sauna. And I knew
 10:42:47AM 22 I wouldn't wear -- you know -- heavy cotton clothes
 10:42:53AM 23 in a sauna.

10:42:59AM 24 So I asked his input on what should we
 10:43:05AM 25 wear. And I believe -- you know -- my own choice

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10:41:49AM 1 was going to be either a T-shirt or a sport top.

10:41:55AM 2 And so based on his answer, I chose to swear a
 10:42:01AM 3 sport top and leave the cotton behind.

10:42:07AM 4 Q. And what did you wear on your bottom?

10:42:13AM 5 A. A pair of gym shorts.

10:42:19AM 6 Q. After changing, then, where did you and
 10:42:25AM 7 the other participants go?

10:42:31AM 8 A. Prior to the sweat lodge?

10:42:37AM 9 Q. Yes.

10:42:43AM 10 A. We went down to where the lodge was
 10:42:49AM 11 built, and we met just outside.

10:42:55AM 12 Q. Ms. Tucker, I'm just going to show you
 10:43:01AM 13 Exhibit 144 and let you get a close-up look at it.

10:43:07AM 14 Do you recognize anybody in that photograph?

10:43:13AM 15 A. Well, most people are turned away -- you
 10:43:19AM 16 know -- but yes.

10:43:25AM 17 Q. Do you see yourself in that photograph?

10:43:27AM 18 A. Actually, yes, I do.

10:43:33AM 19 Q. Let me put it up on the overhead. And we
 10:43:39AM 20 can look at it on the screen and you can see it on
 10:43:45AM 21 the screen here.

10:43:51AM 22 And for the record, I'm publishing
 10:43:57AM 23 Exhibit 144.

10:44:03AM 24 Now, if you touch that screen, you can
 10:44:09AM 25 actually point and leave a mark on the person that

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10 43 22AM 1 you believe is yourself.

10 43 28AM 2 **A. Okay. I think that's me. I missed.**

10 43 33AM 3 **Q.** To undo it, do you see in the bottom left

10 43 36AM 4 there's a "clear"? If you touch the screen above

10 43 38AM 5 the clear, it should go away.

10 43 38AM 6 **A. Okay.**

10 43 38AM 7 **Q.** There you go.

10 43 38AM 8 I'm just going to put my hand right on

10 43 47AM 9 the screen. This is the person you pointed to?

10 43 49AM 10 **A. Yes.**

10 43 49AM 11 **Q.** I neglected to ask you earlier. The jury

10 43 54AM 12 did hear about one of the first events, which was

10 43 58AM 13 an opportunity to shave your head. Did you do

10 44 00AM 14 that?

10 44 00AM 15 **A. Not in the beginning.**

10 44 02AM 16 **Q.** Did you at some point?

10 44 03AM 17 **A. I did at some point.**

10 44 06AM 18 **Q.** Tell the jury what happened. How did

10 44 09AM 19 that come about?

10 44 10AM 20 **A. Well, after several days of going back**

10 44 15AM 21 **and forth on it, I did it.**

10 44 21AM 22 **Q.** The jury heard about how you all had an

10 44 26AM 23 opportunity and were encouraged to do it on the

10 44 29AM 24 first night. You didn't do it then?

10 44 31AM 25 **A. No.**

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10 44 32AM 1 **Q.** Why not?

10 44 32AM 2 **A. I didn't have a reason that was good**

10 44 35AM 3 **enough to do it.**

10 44 36AM 4 **Q.** What changed over the course of the week

10 44 39AM 5 that made you change your mind?

10 44 42AM 6 **A. Well, some of the things that I was**

10 44 53AM 7 **working on pointed to the fact that this might be**

10 45 00AM 8 **something that I could in the long term benefit**

10 45 03AM 9 **from. I didn't want to do it just because someone**

10 45 08AM 10 **else was doing it or someone else thought I should**

10 45 11AM 11 **do it. I mean, at the end of the day, it's just**

10 45 15AM 12 **hair. It grew back. And I have no regret. But**

10 45 22AM 13 **that's because I did it for my own reasons and not**

10 45 25AM 14 **anybody else's.**

10 45 26AM 15 **Q.** Will you explain to us what, if any,

10 45 31AM 16 impact the events of the week had on your decision

10 45 34AM 17 to shave your head.

10 45 36AM 18 **A. I don't know if any of the events of the**

10 45 43AM 19 **week had any impact. It was more about what was**

10 45 46AM 20 **going on with me.**

10 45 46AM 21 **Q.** Was it the work you were doing?

10 45 48AM 22 **A. It was.**

10 45 51AM 23 **Q.** And who was guiding that work?

10 45 53AM 24 **A. Primarily Mr. Ray.**

10 46 05AM 25 **Q.** Are you able to recall, as you sit here

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10 46 07AM 1 today, this particular photograph entering the

10 46 10AM 2 sweat lodge?

10 46 11AM 3 **A. Do you mean it being taken?**

10 46 13AM 4 **Q.** No. Just how you were feeling.

10 46 17AM 5 **A. Not really. So much has come to pass**

10 46 29AM 6 **since then. You know. I was there. I was with a**

10 46 32AM 7 **friend. I can see that I'm holding her hand. We**

10 46 35AM 8 **were going in together. We wanted to make sure we**

10 46 38AM 9 **were beside each other. And that's pretty much the**

10 46 43AM 10 **extent of what was on my mind.**

10 46 45AM 11 **Q.** Who is the friend that you were holding

10 46 46AM 12 hands with?

10 46 47AM 13 **A. Laurie Gennari.**

10 46 50AM 14 **Q.** Do you recognize anybody else in this

10 46 52AM 15 photograph?

10 47 13AM 16 **A. Not really.**

10 47 13AM 17 **Q.** Okay.

10 47 15AM 18 **A. I apologize.**

10 47 21AM 19 **Q.** Now I'm going to put up on the screen

10 47 24AM 20 Exhibit 414. And I'm orienting it. It's not

10 47 44AM 21 oriented north/south. I've got it oriented more

10 47 48AM 22 like the face of a clock --

10 47 48AM 23 **A. Okay.**

10 47 51AM 24 **Q.** -- 6:00 o'clock being down here at the

10 47 53AM 25 entrance and 12:00 o'clock being up at the top.

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10 47 56AM 1 Does that orientation work for you?

10 47 58AM 2 **A. It does.**

10 47 59AM 3 **Q.** It works for me as well. Can you tell

10 48 02AM 4 the jury, then -- first of all, as you entered the

10 48 05AM 5 sweat lodge, what direction did you go?

10 48 09AM 6 **A. Went in, went to the right.**

10 48 10AM 7 **Q.** And you can actually, again, draw on

10 48 12AM 8 there with your finger and just show them the path

10 48 16AM 9 that you took.

10 48 16AM 10 **A. Sure. In to the right and around.**

10 48 24AM 11 **Q.** Did you receive instructions about

10 48 27AM 12 entering and exiting clockwise?

10 48 31AM 13 **A. I'm looking at that as counterclockwise.**

10 48 42AM 14 **Q.** Do you think you're correct today,

10 48 44AM 15 thinking that you actually went in counterclockwise

10 48 47AM 16 as opposed to clockwise?

10 48 55AM 17 **A. Well, I think I went in to the right.**

10 48 55AM 18 **Q.** Okay.

10 48 59AM 19 **A. Yeah.**

10 49 00AM 20 **Q.** Where did you end up?

10 49 02AM 21 **A. I ended up -- if the entrance is at**

10 49 06AM 22 **6:00 o'clock, I ended up at 9:00 o'clock.**

10 49 10AM 23 **Q.** Who was seated around you?

10 49 13AM 24 **A. Initially I had Laurie Gennari on my**

10 49 19AM 25 **right and Daniell Granquist on my left.**

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10:49:22AM 1 Q. What happened to your friend that you
 10:49:24AM 2 were holding hands with?
 10:49:25AM 3 A. **She was on my right.**
 10:49:27AM 4 Q. On your right. Then what happened?
 10:49:28AM 5 Initially you were there. Well, let me ask you
 10:49:31AM 6 first, how many rows of people were there?
 10:49:34AM 7 A. **Where we were -- or where I was there was**
 10:49:37AM 8 **just one row.**
 10:49:38AM 9 Q. Were there two rows at some other
 10:49:41AM 10 location?
 10:49:42AM 11 A. **Yes, there was.**
 10:49:42AM 12 Q. Show the jury where.
 10:49:44AM 13 A. **I believe more over on this side here.**
 10:49:47AM 14 Q. You said initially you had Daniell on
 10:49:50AM 15 your left and Laurie Gennari on your right. Did
 10:49:53AM 16 that change?
 10:49:53AM 17 A. **Yes.**
 10:49:54AM 18 Q. How?
 10:49:55AM 19 A. **Just before things got started, Liz**
 10:49:58AM 20 **Neuman came, and she came and sat between myself**
 10:50:01AM 21 **and Laurie.**
 10:50:02AM 22 Q. Had you met Liz Neuman earlier in the
 10:50:06AM 23 week?
 10:50:06AM 24 A. **I had.**
 10:50:08AM 25 Q. Had you gotten to know her a little bit?
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10:50:12AM 1 A. **I had met Liz on other occasions before.**
 10:50:13AM 2 Q. Where had you met her before?
 10:50:14AM 3 A. **At previous events.**
 10:50:15AM 4 Q. Do you know why Liz came in and sat in
 10:50:17AM 5 between you and Laurie?
 10:50:18AM 6 A. **I do.**
 10:50:19AM 7 Q. Why?
 10:50:19AM 8 A. **Liz was on the team, and there were team**
 10:50:23AM 9 **members who were marking each of the directions.**
 10:50:26AM 10 **So given that we were at 9:00 o'clock, I believe**
 10:50:32AM 11 **that was the west.**
 10:50:36AM 12 Q. Okay. Had you heard somebody instruct
 10:50:40AM 13 Liz Neuman to mark a direction, in the words, you
 10:50:44AM 14 just used?
 10:50:45AM 15 A. **I had not.**
 10:50:46AM 16 Q. Where did that come from, in your belief,
 10:50:49AM 17 that Liz was marking a direction?
 10:50:51AM 18 A. **Well, I think that was explained to us**
 10:50:54AM 19 **prior.**
 10:50:54AM 20 Q. What do you recall about -- is this an
 10:50:57AM 21 explanation from Mr. Ray?
 10:51:00AM 22 A. **I believe so. Yes.**
 10:51:04AM 23 Q. And did the explanation involve where the
 10:51:06AM 24 Dream Team members would sit inside the sweat
 10:51:06AM 25 lodge?
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10:51:08AM 1 A. **Yes.**
 10:51:08AM 2 Q. Tell the jury what you recall about that
 10:51:07AM 3 explanation.
 10:51:07AM 4 A. **I recall enough that it made sense to me**
 10:51:10AM 5 **that once I saw -- realized where I was that Liz**
 10:51:12AM 6 **would be scooting in beside me.**
 10:51:14AM 7 Q. Did you understand what Liz's role was
 10:51:18AM 8 inside the sweat lodge?
 10:51:20AM 9 A. **Not really. I mean, I think that the**
 10:51:31AM 10 **people who were on the team that had done this**
 10:51:34AM 11 **before, primarily I would have thought that it**
 10:51:41AM 12 **would have been to -- you know -- watch over us.**
 10:51:45AM 13 Q. Did you say anything to Liz when she came
 10:51:47AM 14 in and sat beside you?
 10:51:49AM 15 A. **I did.**
 10:51:50AM 16 Q. And what did you say?
 10:51:51AM 17 A. **I told her that I was glad that she was**
 10:51:53AM 18 **sitting beside me because I was nervous.**
 10:51:56AM 19 Q. Did you know whether Liz had done this
 10:51:58AM 20 sweat lodge ceremony with Mr. Ray before?
 10:52:04AM 21 A. **Yes, I did know.**
 10:52:06AM 22 Q. Was there any opportunity for
 10:52:08AM 23 conversation among those of you inside this tent
 10:52:12AM 24 before Mr. Ray began the event?
 10:52:14AM 25 A. **Yes, there was.**
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10:52:15AM 1 Q. And who did you talk to during that time?
 10:52:17AM 2 A. **To Liz.**
 10:52:18AM 3 Q. What did you talk about?
 10:52:19AM 4 A. **Well, when I told her that I was glad she**
 10:52:22AM 5 **was there because I was nervous, she asked me why I**
 10:52:26AM 6 **was nervous. And -- you know -- I probably said**
 10:52:30AM 7 **something like I don't know what to expect, and**
 10:52:35AM 8 **then she responded.**
 10:52:38AM 9 Q. How did she respond?
 10:52:38AM 10 A. **She, basically, started telling us -- you**
 10:52:45AM 11 **know -- there was two or three of us tuned in to**
 10:52:49AM 12 **the conversation. And she was telling us -- you**
 10:52:52AM 13 **know -- don't be nervous. You know. Here are some**
 10:52:55AM 14 **things that you can do. And she coached us a**
 10:52:58AM 15 **little bit on what it would be like and some things**
 10:53:03AM 16 **we could do to make ourselves more comfortable.**
 10:53:07AM 17 Q. Tell the jury what those things were that
 10:53:09AM 18 you learned you could do to be more comfortable.
 10:53:12AM 19 A. **The first thing that she said is that you**
 10:53:14AM 20 **could lie down and put your head to the exterior of**
 10:53:19AM 21 **the lodge, and that would make us more comfortable.**
 10:53:26AM 22 **She said -- you know -- otherwise if you wanted**
 10:53:33AM 23 **something else that you could do or we could do is**
 10:53:37AM 24 **go into child's pose.**
 10:53:40AM 25 Q. Which is what?
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10 53 41AM 1 A. It's a yoga pose. But it's where if
 10 53 45AM 2 you're kneeling down, you put your head forward on
 10 53 49AM 3 your knees or on the ground in front of your knees.
 10 54 01AM 4 You know, if you'll turn around, turn your back to
 10 54 04AM 5 the heat and do the same. And -- you know -- she
 10 54 08AM 6 suggested you put your hand on the ground. The
 10 54 12AM 7 ground will be cool. And these things will make
 10 54 16AM 8 you more comfortable.

10 54 19AM 9 Q. How did you feel after learning those
 10 54 23AM 10 tips from Liz?

10 54 26AM 11 A. I felt comforted.

10 54 29AM 12 Q. Liz comforted you?

10 54 32AM 13 A. Yes.

10 54 35AM 14 Q. Had Mr. Ray ever told you about those
 10 54 39AM 15 tips that you learned from Liz Neuman?

10 54 42AM 16 A. I don't recall that he did.

10 54 45AM 17 Q. How did that ceremony begin?

10 54 48AM 18 A. The -- well, the first stones were
 10 54 52AM 19 brought in.

10 54 55AM 20 Q. Do you recall how many stones were
 10 54 59AM 21 brought in?

10 55 02AM 22 A. I do not.

10 55 05AM 23 Q. Do you know who asked for the stones to
 10 55 09AM 24 be brought in?

10 55 12AM 25 A. Yes, I do.

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10 54 51AM 1 Q. Who?

10 54 54AM 2 A. Mr. Ray.

10 54 57AM 3 Q. Do you know who brought the stones in?

10 55 00AM 4 A. I believe it was the gentleman who --
 10 55 04AM 5 well, he was tending to the fire and tending to the
 10 55 08AM 6 stones.

10 55 11AM 7 Q. What happened after the stones were
 10 55 15AM 8 brought in? Where were they put?

10 55 18AM 9 A. They were put into the pit.

10 55 21AM 10 Q. Okay. And what do you remember next?

10 55 24AM 11 A. I remember the heat.

10 55 27AM 12 Q. Tell the jury about that.

10 55 30AM 13 A. Well, it came all at once. You know, it
 10 55 34AM 14 radiated from the stones, and it was a lot hotter
 10 55 38AM 15 than I expected.

10 55 41AM 16 Q. What did you do?

10 55 44AM 17 A. Well, I probably swore. But -- you
 10 55 48AM 18 know -- I braced myself -- you know. And I -- you
 10 55 52AM 19 know -- was just -- you know -- feeling it and
 10 55 56AM 20 seeing what -- trying to figure out what this was
 10 55 59AM 21 going to be like. And I became -- it was very
 10 56 03AM 22 uncomfortable pretty quickly for me.

10 56 06AM 23 Q. Did you change your position at all?

10 56 09AM 24 A. I did.

10 56 12AM 25 Q. How so?

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10 56 38AM 1 A. Well, we were seated with our backs to
 10 56 42AM 2 the fabric of the tent, and I just found that I was
 10 56 46AM 3 suddenly extremely uncomfortable physically and --
 10 56 50AM 4 you know -- just like any ache and pain I might
 10 56 54AM 5 have had in my body was -- you know -- amplified.
 10 56 58AM 6 I was kind of squirming around. I couldn't sit
 10 57 01AM 7 still. So -- you know -- I thought -- or I felt
 10 57 05AM 8 like I was putting way too much energy in just
 10 57 09AM 9 sitting up, so I lay down. By the end of the first
 10 57 13AM 10 round, I lay down.

10 57 16AM 11 Q. What was your -- what were the signs or
 10 57 20AM 12 the symptoms of your body that are making you use
 10 57 24AM 13 the word "uncomfortable" right now?

10 57 27AM 14 A. Well, I had a sore in my -- my neck was
 10 57 31AM 15 sore. My shoulder was sore, and my hip was sore.
 10 57 35AM 16 It was strange. And it was unexpected.

10 57 38AM 17 Q. How about your breathing?

10 57 42AM 18 A. Well, at that point there was nothing
 10 57 46AM 19 remarkable about my breathing when I lay down. And
 10 57 50AM 20 so I was lying down with my head to the outside
 10 57 54AM 21 with my knees bent up. I got more comfortable
 10 58 00AM 22 physically. And -- you know -- as -- the first --
 10 58 04AM 23 during the first three rounds I was having
 10 58 08AM 24 difficulty. I was trying to breathe slow and deep.
 10 58 12AM 25 And I was -- to relax -- you know -- so I thought.

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10 58 19AM 1 But in the meantime, my heart was pounding. I was
 10 58 23AM 2 uncomfortable.

10 58 26AM 3 Q. Did you think about leaving?

10 58 30AM 4 A. Well, I knew that if I didn't get things
 10 58 34AM 5 under control, for lack of a better expression, if
 10 58 38AM 6 I didn't get things under control fairly quickly
 10 58 42AM 7 that I was going to have to leave.

10 58 46AM 8 Q. Did you have a system worked out to keep
 10 58 50AM 9 tabs on yourself and somebody around you?

10 58 54AM 10 A. Yes.

10 58 58AM 11 Q. Who did you work out a system with?

10 59 02AM 12 A. Liz.

10 59 06AM 13 Q. When did you work out that system with
 10 59 10AM 14 her?

10 59 14AM 15 A. It must have been prior when she was --
 10 59 18AM 16 you know -- coaching us.

10 59 22AM 17 Q. At any time prior to your entering this
 10 59 26AM 18 structure for Mr. Ray's ceremony, had Mr. Ray ever
 10 59 30AM 19 told you to work out a system?

10 59 34AM 20 A. I don't remember that he did.

10 59 38AM 21 Q. Okay. Tell the jury the system that Liz
 10 59 42AM 22 suggested for you.

10 59 46AM 23 A. She was -- she suggested that we tap each
 10 59 50AM 24 other as a way to -- you know -- we couldn't really
 10 59 54AM 25 speak, not for any other reason than -- you know --

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10:59:46AM 1 it wasn't the time or place to be chatting. So
 10:59:51AM 2 that we would -- you know -- just kind of touch
 10:59:54AM 3 each other on the arm or just wherever we were in
 10:59:57AM 4 close contact.

11:00:00AM 5 Q. And you're using the word "we." Was it
 11:00:03AM 6 more than just you and Liz Neuman?

11:00:05AM 7 A. Well, I had Liz on my right, and I had
 11:00:07AM 8 Daniell on my left, so we would tap.

11:00:10AM 9 Q. How often would you tap each other?

11:00:12AM 10 A. It was pretty regular, you know.

11:00:17AM 11 Q. In terms of minutes, can you give us an
 11:00:20AM 12 idea.

11:00:20AM 13 A. I'd say every few minutes, every five
 11:00:26AM 14 minutes. It's hard to quantify it. It was at
 11:00:30AM 15 regular intervals.

11:00:32AM 16 Q. Were you aware of whether either woman on
 11:00:35AM 17 either side of you was tapping on you?

11:00:38AM 18 A. Yes, I was.

11:00:39AM 19 Q. Was Liz tapping on you?

11:00:41AM 20 A. She was.

11:00:42AM 21 Q. At some point did that change? Actually,
 11:00:48AM 22 let me back up.

11:00:51AM 23 You talked about knowing that if you
 11:00:53AM 24 didn't get things under control, you were going to
 11:00:56AM 25 leave. Did that change?

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11:00:57AM 1 A. Yes. Absolutely it did.

11:00:58AM 2 Q. Tell the jury what happened.

11:01:00AM 3 A. Well, the first three rounds were very
 11:01:03AM 4 strenuous for me because of how I was -- you
 11:01:07AM 5 know -- trying to breathe. And at some point there
 11:01:11AM 6 I knew -- I apologize. I'm repeating myself. I
 11:01:16AM 7 knew that I would have to go if that didn't change.
 11:01:19AM 8 And suddenly instead of trying to force myself to
 11:01:23AM 9 breathe slowly and deeply, I started to breathe
 11:01:28AM 10 much more shallowly, and everything in my body
 11:01:30AM 11 calmed down. All of the discomfort went away. My
 11:01:35AM 12 heart rate settled. And everything shifted for me.

11:01:41AM 13 Q. And once things shifted for you and you
 11:01:44AM 14 calmed down, were you aware of the people around
 11:01:46AM 15 you?

11:01:47AM 16 A. I was aware of the people immediately
 11:01:49AM 17 surrounding me.

11:01:51AM 18 Q. Were you aware of Liz Neuman?

11:01:53AM 19 A. I was.

11:01:54AM 20 Q. At some point did Liz do something that
 11:01:58AM 21 drew your attention?

11:01:59AM 22 A. Yes, she did.

11:02:01AM 23 Q. Tell the jury what.

11:02:01AM 24 A. This would have been -- you know --
 11:02:04AM 25 somewhere around the fourth or the fifth round.

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11:02:07AM 1 And I was still -- I remained lying down on my back
 11:02:12AM 2 the entire time. So she had been sitting at the
 11:02:18AM 3 back, so close to my head. And she crawled
 11:02:25AM 4 forward, and she went into child's pose, so she was
 11:02:30AM 5 kneeling and put her head down towards the center.

11:02:37AM 6 Q. Will you show us on this exhibit we have
 11:02:40AM 7 on the overhead the change -- where Liz went from
 11:02:44AM 8 and where she ended up.

11:02:52AM 9 A. Now, this isn't to scale, is it, or
 11:02:55AM 10 anything?

11:02:55AM 11 Q. No.

11:02:56AM 12 A. Okay. We were here where the mouse
 11:03:01AM 13 pointer is. I was lying down. My head was back.

11:03:10AM 14 Can I clear it?

11:03:13AM 15 Q. Yes.

11:03:18AM 16 A. Okay. So if we were here and here --

11:03:20AM 17 Q. Which one of those is you?

11:03:21AM 18 A. It's not very precise.

11:03:32AM 19 Q. That's okay.

11:03:33AM 20 A. So this would be Liz. This would be me,
 11:03:38AM 21 the one further to the top here. Forget the little
 11:03:41AM 22 one. And so my head was to the outside of the
 11:03:50AM 23 circle touching the tent. Liz moved forward
 11:03:56AM 24 probably just over half of my body length, and she
 11:04:05AM 25 went forward, like I described, with her head

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11:04:11AM 1 towards the stones.

11:04:13AM 2 Q. Will you just draw on there, then,
 11:04:15AM 3 connecting Liz from where you thought she started
 11:04:19AM 4 to where she ended up?

11:04:30AM 5 Did you react to that?

11:04:31AM 6 A. Well, I certainly noticed.

11:04:32AM 7 Q. Why?

11:04:33AM 8 A. Well, for a couple of reasons. The first
 11:04:37AM 9 thing is here I was. And I had to be lying down on
 11:04:41AM 10 my back. So it was very different than where I
 11:04:44AM 11 was. And secondly, it was the opposite of what she
 11:04:48AM 12 described to me.

11:04:51AM 13 Q. Did that concern you?

11:04:53AM 14 A. It did.

11:04:54AM 15 Q. And the opposite of what had been
 11:04:57AM 16 described to you -- why did that concern you?

11:05:02AM 17 A. Well, I guess I was thinking of myself in
 11:05:11AM 18 that position. And I figured it would have been
 11:05:14AM 19 extremely uncomfortable.

11:05:20AM 20 Q. Were you concerned about the temperature?

11:05:22AM 21 A. Yes.

11:05:23AM 22 Q. Had you noticed, Ms. Tucker, a difference
 11:05:28AM 23 in the temperature from being close to the pit as
 11:05:32AM 24 opposed to being near the side of the tent?

11:05:36AM 25 A. Well, the heat was radiating from the

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11:05:40AM 1 middle, and so it was hotter on my feet and my
 11:05:45AM 2 shins, which were facing the stones, than it was on
 11:05:49AM 3 my head, which was away.
 11:05:53AM 4 Q. What did you do when Liz Neuman shifted
 11:05:57AM 5 her position to move closer to the pit?
 11:06:00AM 6 A. Initially I just observed it. And then
 11:06:04AM 7 as things progressed, I could still -- from my
 11:06:08AM 8 position I could still reach her. So I reached
 11:06:12AM 9 forward -- and we had been tapping. So I reached
 11:06:16AM 10 forward, and I was tapping her.
 11:06:20AM 11 Q. And what happened? Was there any
 11:06:24AM 12 reaction?
 11:06:28AM 13 A. Yeah. She tapped back. And then at some
 11:06:32AM 14 point I reached forward again and I grabbed her hip
 11:06:36AM 15 to kind of pull her. And I don't remember if I
 11:06:40AM 16 said, Liz, come back here, but just trying to
 11:06:44AM 17 say -- you know -- come on. Back away.
 11:06:48AM 18 Q. And was there a response?
 11:06:52AM 19 A. She brushed my hand away.
 11:06:56AM 20 Q. You said that was around the fourth or
 11:07:00AM 21 the fifth round?
 11:07:04AM 22 A. Progressing from there.
 11:07:08AM 23 Q. Do you recall approximately when it was
 11:07:12AM 24 that you tried to pull her back and she brushed
 11:07:16AM 25 your hand away?

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11:07:19AM 1 A. (No audible response.)
 11:07:23AM 2 Q. Did that concern you?
 11:07:27AM 3 A. Well, sure it did.
 11:07:31AM 4 Q. Did you notice anything further about
 11:07:35AM 5 Liz?
 11:07:39AM 6 A. Well, she didn't stay in that position
 11:07:43AM 7 indefinitely. She changed her position again.
 11:07:47AM 8 Q. When was it that Liz changed her position
 11:07:51AM 9 again?
 11:07:55AM 10 A. This is where the time line is a little
 11:07:59AM 11 sketchy for me.
 11:08:03AM 12 Q. Okay. Let me just digress a little bit.
 11:08:07AM 13 A. Okay.
 11:08:11AM 14 Q. Do you know how many rounds Mr. Ray
 11:08:15AM 15 conducted that day?
 11:08:19AM 16 A. I believe it was eight rounds.
 11:08:23AM 17 Q. Do you have a sense, then, in terms of
 11:08:27AM 18 your perception of time, did your ability to
 11:08:31AM 19 perceive time change as the ceremony progressed?
 11:08:35AM 20 A. I think that's a good way of describing
 11:08:39AM 21 it.
 11:08:43AM 22 Q. Put it in your own words.
 11:08:47AM 23 A. Well, first off, when I was there I had
 11:08:51AM 24 no idea that this would ever be something that
 11:08:55AM 25 would be scrutinized to this degree. I was not

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11:08:42AM 1 paying attention to the most minute detail of how
 11:08:46AM 2 time was passing. So it's hard to go back and
 11:08:50AM 3 reconstruct it other than to do a time line -- you
 11:08:54AM 4 know -- to put things in order. And that's why
 11:08:58AM 5 sometimes I may not sound completely confident
 11:09:02AM 6 about how long something was or something took.
 11:09:06AM 7 But I know the order that they were in.
 11:09:10AM 8 Q. Did you know prior to entering that tent
 11:09:14AM 9 how long you would be in there for?
 11:09:18AM 10 A. I anticipated -- you know -- an hour and
 11:09:22AM 11 a half to two hours, I believe.
 11:09:26AM 12 Q. Where did you get that idea from?
 11:09:30AM 13 A. I think that was from the explanation
 11:09:34AM 14 Mr. Ray gave prior.
 11:09:38AM 15 Q. So we were talking about Liz and that she
 11:09:42AM 16 shifted her position again. Do you have a sense
 11:09:46AM 17 for how many minutes or hours into this event it
 11:09:50AM 18 was when she shifted again?
 11:09:54AM 19 A. I would have to say around the sixth
 11:09:58AM 20 round.
 11:10:02AM 21 Q. How did she shift? How did she change
 11:10:06AM 22 her position?
 11:10:10AM 23 A. She got up and she moved in front of me,
 11:10:14AM 24 and she sat back and she leaned back on my legs.
 11:10:18AM 25 Q. If you will just show us on your diagram.

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11:10:00AM 1 Illustrate what you just said.
 11:10:04AM 2 A. Well --
 11:10:08AM 3 Q. And I think if we tap, we can give you a
 11:10:12AM 4 different color.
 11:10:16AM 5 A. Okay. So if that dot here is me, she had
 11:10:20AM 6 been shifted forward about half my body length with
 11:10:24AM 7 her head facing to the pit. She got up and she
 11:10:28AM 8 moved and she sat.
 11:10:32AM 9 Q. Okay. Then what did she do? Did she
 11:10:36AM 10 touch you?
 11:10:40AM 11 A. Well, she was leaning back on me.
 11:10:44AM 12 Q. What was your position when Liz began to
 11:10:48AM 13 lean on you?
 11:10:52AM 14 A. I was still lying down on the ground. My
 11:10:56AM 15 legs were bent up and my feet were flat and my
 11:11:00AM 16 knees were raised.
 11:11:04AM 17 Q. What part of your body was Liz leaning
 11:11:08AM 18 on?
 11:11:12AM 19 A. On my shins.
 11:11:16AM 20 Q. What part of her body was she using to
 11:11:20AM 21 lean on your shins?
 11:11:24AM 22 A. Her back.
 11:11:28AM 23 Q. What direction was she facing?
 11:11:32AM 24 A. She was facing the center.
 11:11:36AM 25 Q. Did that affect you?

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11 11 11AM 1 A. It did.

11 11 11AM 2 Q. In what way?

11 11 12AM 3 A. Well, I was supporting her physically,

11 11 12AM 4 some of her weight. I don't want to say all of her

11 11 12AM 5 weight. But some of her weight was on me.

11 11 27AM 6 Q. And was that difficult?

11 11 28AM 7 A. It was.

11 11 28AM 8 Q. Did you maintain that position?

11 11 31AM 9 A. I tried to maintain that position, and we

11 11 39AM 10 were very wet. We were sweating. So it was

11 11 44AM 11 requiring a lot of effort to keep my knees up and

11 11 49AM 12 have her lean back on me. So I shifted my legs,

11 11 56AM 13 and I flipped them over to the right so that I

11 12 01AM 14 could still -- you know -- support her. But it was

11 12 06AM 15 less strenuous for me.

11 12 08AM 16 Q. In shifting your legs to the right, did

11 12 11AM 17 you move your body as well?

11 12 12AM 18 A. No. I don't think so. I think it was

11 12 16AM 19 more just a flip of the legs.

11 12 18AM 20 Q. Okay. Was Laurie Gennari, then, in the

11 12 25AM 21 area?

11 12 25AM 22 A. Yes, she was.

11 12 27AM 23 Q. Did she shift her position as well?

11 12 28AM 24 A. Yes.

11 12 30AM 25 Q. Tell the jury how.

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11 12 31AM 1 A. Laurie was immediately to my right. And

11 12 38AM 2 she also -- she flipped her legs the other way. So

11 12 44AM 3 now our -- we were jointly -- you know -- Liz was

11 12 51AM 4 leaning back on both of us instead of just me.

11 12 56AM 5 Q. Okay. When you shifted your knees -- or

11 12 59AM 6 your legs and Laurie Gennari shifted her legs, how

11 13 04AM 7 did Liz get from a position of being supported by

11 13 09AM 8 your knees to now resting on your legs? Did she

11 13 13AM 9 move herself? Did you help her?

11 13 16AM 10 A. I don't recall. It was nothing that

11 13 28AM 11 stood out and, you know -- may I backtrack for a

11 13 33AM 12 moment?

11 13 33AM 13 Q. Yes.

11 13 33AM 14 A. Part of why this didn't seem like it was

11 13 38AM 15 extraordinary was that in the beginning when

11 13 44AM 16 Mr. Ray was describing inner row and outer row, it

11 13 49AM 17 was described to us that if you had an inner row

11 13 51AM 18 and an outer row that it was nice for the people

11 13 55AM 19 who were in the inner row -- it was warmer -- if

11 14 00AM 20 they wanted to lean back on your legs and help to

11 14 06AM 21 support them physically. And, you know -- and even

11 14 14AM 22 take turns, inner and outer.

11 14 14AM 23 We didn't have an inner ring or an outer

11 14 18AM 24 ring. There weren't enough people to go around the

11 14 21AM 25 whole thing all that way. And -- you know -- so

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11 14 23AM 1 that was the context of what was going on.

11 14 28AM 2 I don't remember that I had to move Liz

11 14 29AM 3 or -- you know -- do anything there other than

11 14 33AM 4 shift my own position to be more comfortable. And

11 14 36AM 5 then when Laurie -- she helped me by also putting

11 14 44AM 6 her legs over, and our knees were kind of stacked

11 14 47AM 7 over the other. And Liz was leaning back on the

11 14 49AM 8 two of us.

11 14 51AM 9 Q. Of the three of you, who was closest to

11 14 53AM 10 the source of the heat?

11 14 54AM 11 A. Liz.

11 14 56AM 12 Q. Did that situation change at some point?

11 15 02AM 13 A. No.

11 15 05AM 14 Q. Did the positions that you were in remain

11 15 08AM 15 the same?

11 15 10AM 16 A. They did for some time.

11 15 14AM 17 Q. And then what happened?

11 15 17AM 18 A. Again, the timing may be a little off.

11 15 20AM 19 But Laurie had to -- she needed to leave, so she

11 15 28AM 20 did.

11 15 28AM 21 Q. How did you become aware that Laurie was

11 15 32AM 22 leaving?

11 15 32AM 23 A. I think she said, I got to go, or

11 15 35AM 24 something like that.

11 15 36AM 25 Q. Do you have any idea when it was in this

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11 15 39AM 1 chain of events?

11 15 40AM 2 A. It may have been, I think, after the

11 15 48AM 3 seventh round. It was late.

11 15 49AM 4 Q. What happened to your support -- your

11 15 52AM 5 using the legs to support Liz when Laurie Gennari

11 15 57AM 6 left?

11 15 57AM 7 A. It was just me again.

11 15 59AM 8 Q. Okay. And then what happened next?

11 16 01AM 9 A. Actually, I'm out of order.

11 16 06AM 10 Q. That's okay. Do you want to clarify?

11 16 11AM 11 A. Yeah, I do.

11 16 12AM 12 Q. Okay. Please.

11 16 12AM 13 A. I think I've got -- the way I described

11 16 16AM 14 it, I've got Laurie leaving before that, and that's

11 16 19AM 15 not the case.

11 16 34AM 16 All of this was going on, and there

11 16 52AM 17 was -- I was concerned about Liz. You know, I

11 16 56AM 18 thought it was odd that we were having to support

11 17 02AM 19 her as much as we did. And -- you know -- I was

11 17 12AM 20 alternating between what was going on -- you

11 17 17AM 21 know -- with Laurie, with Liz, and just -- you

11 17 23AM 22 know -- being in the sweat lodge, which was its own

11 17 28AM 23 thing. But it was getting long. Liz was puzzling

11 17 39AM 24 me. I became concerned. And during one of the

11 17 46AM 25 breaks I spoke up.

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11:17:51AM 1 Q. Do you recall what break it was?
 11:17:53AM 2 A. **I think it was after the sixth round.**
 11:17:59AM 3 Q. And by "break," what do you mean?
 11:18:01AM 4 A. **When the door of the sweat lodge was**
 11:18:03AM 5 **open.**
 11:18:09AM 6 Q. And before you tell us what you did, what
 11:18:11AM 7 specifically about Liz Neuman concerned you?
 11:18:15AM 8 A. **Well, on some level I was concerned from**
 11:18:23AM 9 **the moment that she moved forward and closer to the**
 11:18:27AM 10 **stones. You know, then when she got up and sat --**
 11:18:35AM 11 **you know -- again, it was -- it wasn't altogether**
 11:18:45AM 12 **unexpected given the whole idea of inner and outer**
 11:18:48AM 13 **row, but it did seem strange to me.**
 11:18:49AM 14 Q. Okay.
 11:18:54AM 15 A. **And it was putting a lot of duress or**
 11:19:02AM 16 **extra effort on me and, I imagine, Laurie as well.**
 11:19:18AM 17 Q. Could you hear -- was Liz saying
 11:19:22AM 18 anything?
 11:19:22AM 19 A. **No.**
 11:19:23AM 20 Q. Could you hear her breathing?
 11:19:25AM 21 A. **I could.**
 11:19:26AM 22 Q. We've heard testimony that there was
 11:19:28AM 23 other chanting going on. Would you agree that
 11:19:31AM 24 there was chanting going on in the sweat lodge?
 11:19:34AM 25 A. **Particularly in the early rounds.**
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11:19:37AM 1 Q. Do you recall whether Liz Neuman
 11:19:40AM 2 participated in the chanting in the early rounds?
 11:19:43AM 3 A. **I believe so.**
 11:19:44AM 4 Q. Did you?
 11:19:44AM 5 A. **No.**
 11:19:47AM 6 Q. At some point did you become aware of
 11:19:51AM 7 whether Liz was still participating in chanting?
 11:19:55AM 8 A. **Well, it seems to me that all the**
 11:19:56AM 9 **chanting wound down.**
 11:20:02AM 10 Q. You talked about being concerned. What
 11:20:05AM 11 did you do with your concern?
 11:20:08AM 12 A. **Well, during one of the breaks or when**
 11:20:14AM 13 **the lodge was open, I called out.**
 11:20:18AM 14 Q. Who did you call out to?
 11:20:20AM 15 A. **I called out to Mr. Ray.**
 11:20:23AM 16 Q. Where was Mr. Ray when you called out to
 11:20:26AM 17 him?
 11:20:26AM 18 A. **As far as I know -- and I was lying down**
 11:20:29AM 19 **this whole time. As far as I know, he was over**
 11:20:35AM 20 **right near the entrance.**
 11:20:37AM 21 Q. Okay. Could you see when you called out?
 11:20:40AM 22 A. **Not particularly well. There was some**
 11:20:46AM 23 **light coming in from the door.**
 11:20:48AM 24 Q. The door was open when you called out?
 11:20:51AM 25 A. **Yes.**
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11:20:52AM 1 Q. Tell the jury what you said when you
 11:20:54AM 2 called out.
 11:20:54AM 3 A. **The first time that I called out, I said,**
 11:20:57AM 4 **James, I'm concerned about Liz.**
 11:20:58AM 5 Q. What sort of voice did you use?
 11:21:02AM 6 A. **I used my own normal voice.**
 11:21:17AM 7 Q. Okay. Did Mr. Ray answer you?
 11:21:18AM 8 A. **Not initially.**
 11:21:20AM 9 Q. What did you do?
 11:21:21AM 10 A. **Well, I wasn't sure if I was loud enough.**
 11:21:24AM 11 **So I propped myself up a little bit, and then I**
 11:21:30AM 12 **made more of an effort to project.**
 11:21:33AM 13 Q. Okay. And what did you say?
 11:21:34AM 14 A. **I said, James, it's Laura. I'm concerned**
 11:21:38AM 15 **about Liz.**
 11:21:38AM 16 Q. You just used kind of a quiet tone here
 11:21:41AM 17 in court. Is that the same tone you used?
 11:21:44AM 18 A. **No. It was more forceful than that. I**
 11:21:48AM 19 **wasn't screaming or yelling or anything like that.**
 11:21:48AM 20 Q. Did Mr. Ray respond the second time you
 11:21:51AM 21 called out?
 11:21:51AM 22 A. **He did.**
 11:21:52AM 23 Q. And what did he say?
 11:21:54AM 24 A. **He said, Liz has done this before, Laura.**
 11:22:00AM 25 **She knows what she's doing.**
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11:22:03AM 1 Q. After you called out with your concern
 11:22:05AM 2 about Liz Neuman, did Mr. Ray come over and check
 11:22:08AM 3 on Liz?
 11:22:09AM 4 A. **No.**
 11:22:10AM 5 Q. Did he ask any of his staff to check on
 11:22:14AM 6 Liz?
 11:22:14AM 7 A. **No.**
 11:22:15AM 8 Q. Did he ask any of his Dream Team members
 11:22:18AM 9 to check on Liz?
 11:22:21AM 10 A. **No.**
 11:22:21AM 11 Q. Did he ask you for any further
 11:22:24AM 12 information about Liz and what was concerning you?
 11:22:26AM 13 A. **No.**
 11:22:27AM 14 Q. Did he move from his position at all when
 11:22:31AM 15 he answered you?
 11:22:32AM 16 A. **Not that I'm aware.**
 11:22:35AM 17 Q. What did you do after Mr. Ray responded
 11:22:43AM 18 in the way that he did?
 11:22:44AM 19 A. **I decided I would ask Liz. So I reached**
 11:22:55AM 20 **up my left hand. I could reach her shoulder. I**
 11:23:00AM 21 **touched her on her left shoulder to get her**
 11:23:03AM 22 **attention. And I asked her Liz, are you okay?**
 11:23:09AM 23 Q. Did Liz respond?
 11:23:10AM 24 A. **She did.**
 11:23:11AM 25 Q. And what did she say?
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11:23:12AM 1 A. **She said yes.**
 11:23:14AM 2 Q. What sort of voice did Liz use when she
 11:23:16AM 3 said yes?
 11:23:18AM 4 A. **It was -- you know -- maybe a little**
 11:23:20AM 5 **labored.**
 11:23:22AM 6 Q. Was it very loud?
 11:23:24AM 7 A. **It was loud enough I heard her.**
 11:23:26AM 8 Q. And you were right beside her?
 11:23:28AM 9 A. **I was right behind her.**
 11:23:30AM 10 Q. Did Liz look at you when she responded?
 11:23:32AM 11 A. **She turned her head to the left.**
 11:23:34AM 12 Q. And where were you?
 11:23:36AM 13 A. **I was immediately behind her.**
 11:23:38AM 14 Q. Did you do anything further?
 11:23:40AM 15 A. **I did.**
 11:23:42AM 16 Q. What did you do?
 11:23:44AM 17 A. **I asked her another question.**
 11:23:46AM 18 Q. What was that?
 11:23:48AM 19 A. **I asked her if she needed to get out.**
 11:23:50AM 20 Q. Did Liz respond?
 11:23:52AM 21 A. **She did.**
 11:23:54AM 22 Q. And what did she say?
 11:23:56AM 23 A. **She said no.**
 11:23:58AM 24 Q. Did any time pass between the time you
 11:24:00AM 25 asked her that question, did she need to get out,
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11:24:17AM 1 and she answered?
 11:24:19AM 2 A. **Only a moment.**
 11:24:21AM 3 Q. What sort of voice did Liz use?
 11:24:23AM 4 A. **The same.**
 11:24:25AM 5 Q. Did she move at all?
 11:24:27AM 6 A. **She didn't shift her position or -- you**
 11:24:29AM 7 **know -- other than the turn of the head to answer**
 11:24:31AM 8 **me.**
 11:24:33AM 9 Q. Okay. Where was her head at the time
 11:24:35AM 10 that she answered you? Well, you described for us
 11:24:37AM 11 Liz lying on your legs. Was she still there during
 11:24:39AM 12 this?
 11:24:41AM 13 A. **Yes.**
 11:24:43AM 14 Q. Okay. Where was her head specifically?
 11:24:45AM 15 A. **Well, you have to picture me lying on the**
 11:24:47AM 16 **ground with my knees up, my shins downward at that**
 11:24:49AM 17 **point with Laurie with our legs there. She was**
 11:24:51AM 18 **leaned back on us almost like a chair.**
 11:24:53AM 19 **So I could reach her by -- you know --**
 11:24:55AM 20 **sitting partially up and reaching forward so her**
 11:24:57AM 21 **head was right within reach of me.**
 11:24:59AM 22 Q. Okay. Her head was not on the ground?
 11:25:01AM 23 A. **No.**
 11:25:03AM 24 Q. Was she supporting herself at all?
 11:25:05AM 25 A. **That's hard to say.**
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11:25:37AM 1 Q. Did you feel that you were supporting
 11:25:39AM 2 her?
 11:25:41AM 3 A. **Well, I knew that I was at least**
 11:25:43AM 4 **partially supporting her. But I did not think that**
 11:25:45AM 5 **I was -- or that we were fully supporting her.**
 11:25:47AM 6 Q. And then, Ms. Tucker, after that
 11:25:49AM 7 conversation with Mr. Ray and then the conversation
 11:25:51AM 8 you had with Liz, what did you think?
 11:25:53AM 9 A. **Well, one of the things that I was**
 11:25:55AM 10 **thinking was that I was ready for this whole thing**
 11:25:57AM 11 **to be over. And I had Mr. Ray -- you know --**
 11:25:59AM 12 **saying -- you know -- Liz knows what she's doing.**
 11:26:01AM 13 **I'm not sure if he could see her or not. And I had**
 11:26:03AM 14 **Liz responding to me promptly and, in my mind,**
 11:26:05AM 15 **clearly. So I let things be.**
 11:26:07AM 16 Q. At the time were you comfortable with
 11:26:09AM 17 letting things be?
 11:26:11AM 18 A. **I'm going to say that's what I did. So**
 11:26:13AM 19 **yes.**
 11:26:15AM 20 Q. Did you continue to be aware of Liz after
 11:26:17AM 21 that?
 11:26:19AM 22 A. **Yeah. I mean, I went back -- this is**
 11:26:21AM 23 **very late -- in the lodge, towards the end at this**
 11:26:23AM 24 **point. Laurie had left. And I was -- at that**
 11:26:25AM 25 **point my thought was okay. We got this far. We**
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11:27:55AM 1 **can do one more. Let's go.**
 11:28:00AM 2 Q. Did Liz shift her position at all from
 11:28:05AM 3 that point forward?
 11:28:08AM 4 A. **No.**
 11:28:10AM 5 Q. Was there any change in her position at
 11:28:12AM 6 all with respect to you and leaning on you from
 11:28:14AM 7 that point forward?
 11:28:16AM 8 A. **No.**
 11:28:18AM 9 Q. Did Liz make any more sounds?
 11:28:20AM 10 A. **Not that -- I mean, she was there. She**
 11:28:22AM 11 **was breathing. At no point did she not. She was**
 11:28:24AM 12 **breathing.**
 11:28:26AM 13 MS. POLK: Your Honor, are we going to go
 11:28:28AM 14 until noon or are we going to take a break?
 11:28:30AM 15 THE COURT: To me -- 10 more minutes we will
 11:28:32AM 16 take an early break. Or we can do -- we can come
 11:28:34AM 17 back early, 20 minutes or so.
 11:28:36AM 18 MS. POLK: I can go for 10 more minutes if you
 11:28:38AM 19 want me to do that. And then we're going to break
 11:28:40AM 20 for lunch?
 11:28:42AM 21 THE COURT: Yes.
 11:28:44AM 22 MS. POLK: Okay. I can do that.
 11:28:46AM 23 THE COURT: Then we'll take an early lunch
 11:28:48AM 24 break.
 11:28:50AM 25 Q. BY MS. POLK: Now, I've asked you a lot
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11 29 07AM 1 of questions just specifically about you and Liz
 11 29 08AM 2 Neuman. Were you aware of anything else going
 11 29 13AM 3 inside that tent?
 11 29 15AM 4 **A. My attention was pretty local through all**
 11 29 16AM 5 **of this. I mean, I heard the odd thing, but I was**
 11 29 27AM 6 **more attending to what was going on with me, my**
 11 29 30AM 7 **body, with Liz, with Laurie.**
 11 29 33AM 8 **Q. Did you hear anyone else call out while**
 11 29 37AM 9 **you were in the tent?**
 11 29 39AM 10 **A. People were calling out. I've not felt**
 11 29 48AM 11 **like I could be a good source for what they were**
 11 29 56AM 12 **saying or who it was.**
 11 30 02AM 13 **Q. Okay. You have talked about Laurie**
 11 30 06AM 14 **Gennari leaving. Were you aware if other people**
 11 30 08AM 15 **were leaving?**
 11 30 09AM 16 **A. Yeah. I knew that other people were**
 11 30 11AM 17 **leaving.**
 11 30 11AM 18 **Q. Were you aware whether other people were**
 11 30 15AM 19 **leaving with their own effort?**
 11 30 18AM 20 **A. That's all I was aware of.**
 11 30 21AM 21 **Q. You talked about light coming in through**
 11 30 29AM 22 **the entrance when the door was open. When the door**
 11 30 33AM 23 **was closed, was there any light inside the tent?**
 11 30 37AM 24 **A. It wasn't a lot, but there was a certain**
 11 30 41AM 25 **amount of light from the stones themselves.**

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11 30 43AM 1 **Q. What sort of light? Will you describe**
 11 30 45AM 2 **that for us.**
 11 30 46AM 3 **A. It was -- they were orange and glowing,**
 11 30 48AM 4 **yellow and orange.**
 11 30 52AM 5 **Q. Were you aware, Ms. Tucker, each time the**
 11 30 57AM 6 **door opened?**
 11 30 57AM 7 **A. I think so.**
 11 30 58AM 8 **Q. Do you know whether rocks were brought in**
 11 31 00AM 9 **each time the door was opened?**
 11 31 02AM 10 **A. I think they were.**
 11 31 03AM 11 **Q. Okay. When the door was closed, did you**
 11 31 06AM 12 **become aware of a light at some point?**
 11 31 12AM 13 **A. Yeah. I believe so. It wasn't near**
 11 31 18AM 14 **where we were.**
 11 31 19AM 15 **Q. Tell the jury what you remember about**
 11 31 22AM 16 **becoming aware of a light.**
 11 31 23AM 17 **A. Well, most of the time that I was lying**
 11 31 26AM 18 **down I had my eyes closed. So whether there was**
 11 31 32AM 19 **light coming in or not, a lot of the time I**
 11 31 43AM 20 **wouldn't have seen it. I do remember at some point**
 11 31 47AM 21 **there was light coming in. And I think it was over**
 11 31 54AM 22 **at the other side. It wasn't the door.**
 11 31 56AM 23 **Q. Right. Point to the other side where you**
 11 32 01AM 24 **mean.**
 11 32 01AM 25 **If you made a mark, I missed it.**

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11 32 04AM 1 **A. Yeah. I know. I'm trying to think. It**
 11 32 06AM 2 **was very fleeting.**
 11 32 07AM 3 **Q. I understand.**
 11 32 09AM 4 **A. So I'm going to give you where I think it**
 11 32 11AM 5 **was coming from. I'm not sure I'm your best source**
 11 32 17AM 6 **for that.**
 11 32 18AM 7 **Q. Do you have any recollection as to -- at**
 11 32 18AM 8 **what point during Mr. Ray's ceremony you became of**
 11 32 25AM 9 **aware of a light coming in from any area other than**
 11 32 28AM 10 **the door?**
 11 32 28AM 11 **A. No, I do not.**
 11 32 29AM 12 **Q. Did you hear anyone react to that light?**
 11 32 31AM 13 **Did they say anything?**
 11 32 31AM 14 **A. I think that's why I became aware of it.**
 11 32 33AM 15 **Q. What did you hear?**
 11 32 34AM 16 **A. I think I heard James -- you know --**
 11 32 36AM 17 **speak up.**
 11 32 36AM 18 **Q. James?**
 11 32 37AM 19 **A. Mr. Ray.**
 11 32 38AM 20 **Q. What did you hear him say?**
 11 32 39AM 21 **A. I don't remember. I remember hearing his**
 11 32 44AM 22 **voice and -- you know -- it -- I'm sorry.**
 11 32 57AM 23 **Q. That's okay. I just want you to testify**
 11 33 00AM 24 **to what you remember.**
 11 33 00AM 25 **A. Yes.**

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11 33 06AM 1 **Q. Did you become aware at any point that**
 11 33 09AM 2 **anyone else -- or anyone in the tent needed help?**
 11 33 13AM 3 **A. No. Not until afterwards.**
 11 33 17AM 4 **Q. Okay. You stayed in the whole time?**
 11 33 22AM 5 **A. I did.**
 11 33 24AM 6 **Q. Was that difficult?**
 11 33 27AM 7 **A. From my own -- talking about my own body**
 11 33 37AM 8 **here, at no point was it -- the most difficult time**
 11 33 40AM 9 **for me was during the first three rounds. If at**
 11 33 45AM 10 **any point in time I had started to go back in that**
 11 33 50AM 11 **direction, I would have got up and I would have got**
 11 33 52AM 12 **out.**
 11 33 53AM 13 **Q. Did you ever think again about leaving**
 11 33 55AM 14 **after the -- after you got kind of control of**
 11 33 58AM 15 **yourself?**
 11 34 00AM 16 **A. No. Not really.**
 11 34 06AM 17 **Q. Did you want to complete the entire**
 11 34 08AM 18 **ceremony with Mr. Ray?**
 11 34 18AM 19 **A. Well, I suppose on some level, yes. If I**
 11 34 24AM 20 **can complete something, typically I like to**
 11 34 27AM 21 **complete it. It doesn't matter what it is. So as**
 11 34 33AM 22 **long as I was feeling okay, I was okay to stay.**
 11 34 45AM 23 **Q. Did you notice any change in your**
 11 34 48AM 24 **condition in terms of your self-awareness or**
 11 34 52AM 25 **awareness of others?**

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11:34:55AM 1 **A. Well, what do you mean specifically?**
 11:34:58AM 2 **Q. Did you feel that you were aware the**
 11:35:01AM 3 **whole time you were in this ceremony?**
 11:35:04AM 4 **A. Yes.**
 11:35:07AM 5 **Q. Tell the jury, then, about how it ended**
 11:35:10AM 6 **and how you got out.**
 11:35:13AM 7 **A. Well, the doors -- it ended. The door**
 11:35:16AM 8 **was open. People were going out in clockwise**
 11:35:19AM 9 **position. And given where I was, I was not among**
 11:35:22AM 10 **the first. So by the time it worked around for**
 11:35:25AM 11 **me -- or us to be able to leave, people were**
 11:35:28AM 12 **already coming in the door -- you know -- straight**
 11:35:31AM 13 **to us.**
 11:35:34AM 14 **Q. What do you mean?**
 11:35:37AM 15 **A. Well, somebody came in. And I don't**
 11:35:40AM 16 **remember who it was. But somebody came. And I**
 11:35:43AM 17 **believe that's how Liz got out. And I got out**
 11:35:46AM 18 **under my own steam.**
 11:35:49AM 19 **Q. Did you see Liz Neuman taken out?**
 11:35:52AM 20 **A. I didn't.**
 11:35:55AM 21 **Q. You're just guessing how Liz got out?**
 11:35:58AM 22 **A. Well, this person, whoever they were,**
 11:36:01AM 23 **came up, checked -- you know -- I believe. Even**
 11:36:04AM 24 **may have said, can you get out? And I said yes,**
 11:36:07AM 25 **and I've got to go. My limits were at that point**

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11:36:02AM 1 **being exceeded once again. I needed to get out.**
 11:36:05AM 2 **And so that's what I did.**
 11:36:08AM 3 **Q. When the ceremony was over, was Liz**
 11:36:11AM 4 **Neuman still laying on your legs?**
 11:36:14AM 5 **A. Yeah. I believe so.**
 11:36:17AM 6 **Q. How did you get out from under her?**
 11:36:20AM 7 **A. Well, this person was there, and they**
 11:36:23AM 8 **took her.**
 11:36:26AM 9 **Q. Did you see Liz at that point? When it**
 11:36:29AM 10 **was over, did you see Liz Neuman?**
 11:36:32AM 11 **A. It was -- you know -- there was just the**
 11:36:35AM 12 **light coming in from the door. And I -- honestly,**
 11:36:38AM 13 **I didn't. I didn't.**
 11:36:41AM 14 **Q. How were you feeling at that time in**
 11:36:44AM 15 **terms of your condition?**
 11:36:47AM 16 **A. It was time for me to get out.**
 11:36:50AM 17 **Q. Because?**
 11:36:53AM 18 **A. Because my -- because it was -- you**
 11:36:56AM 19 **know -- it was long. It was still hot. And I**
 11:36:59AM 20 **wanted to leave. I wasn't among the first to**
 11:37:02AM 21 **leave, and I was getting agitated again. So I was**
 11:37:05AM 22 **getting back into the same state as I was during**
 11:37:08AM 23 **the first three rounds.**
 11:37:11AM 24 **Q. You talked about leaving clockwise. And**
 11:37:14AM 25 **you told the jury you were in this area. Did you,**

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11:36:16AM 1 then, go out like this?
 11:36:19AM 2 **A. I believe I did.**
 11:36:22AM 3 **Q. Were you aware, Ms. Tucker, as you were**
 11:36:25AM 4 **going out of anybody else around you?**
 11:36:28AM 5 **A. It was mostly empty at that time.**
 11:36:31AM 6 **Q. Did you see anybody else or did you pass**
 11:36:34AM 7 **anybody else as you were getting out, if you**
 11:36:37AM 8 **remember?**
 11:36:40AM 9 **A. I don't remember.**
 11:36:43AM 10 **Q. That's okay. How did you get out? Did**
 11:36:46AM 11 **you walk? How did you get out?**
 11:36:49AM 12 **A. It wasn't tall enough to walk. So it was**
 11:36:52AM 13 **more something between a crawl and a crouch.**
 11:36:55AM 14 **Q. When you got to the entrance, what did**
 11:36:58AM 15 **you do?**
 11:37:01AM 16 **A. Well, I got right out of there.**
 11:37:04AM 17 **Q. Well, I'm going to put up on our overhead**
 11:37:07AM 18 **Exhibit 145. And do you see this exhibit has some**
 11:37:10AM 19 **tarps on the ground?**
 11:37:13AM 20 **A. Uh-huh. Yes, I do.**
 11:37:16AM 21 **Q. Where did you go from the entrance once**
 11:37:19AM 22 **you got out?**
 11:37:22AM 23 **A. There was a man crouched in front of the**
 11:37:25AM 24 **entrance. I want to locate the entrance.**
 11:37:28AM 25 **Q. That's a good question. Do you remember**
 11:37:31AM
 11:37:34AM

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11:37:40AM 1 where the fire was?
 11:37:43AM 2 **A. No.**
 11:37:46AM 3 **MS. POLK: Okay. Do you want me to stop now?**
 11:37:49AM 4 **THE COURT: Please, Ms. Polk. Thank you.**
 11:37:52AM 5 **Ms. Tucker, the rule of exclusion of**
 11:37:55AM 6 **witnesses has been invoked. I think you understand**
 11:37:58AM 7 **what that is. But just to remind you, it means you**
 11:38:01AM 8 **cannot communicate in any way about the case or**
 11:38:04AM 9 **your testimony with other witnesses until the case**
 11:38:07AM 10 **is completely over. You can talk to the lawyers,**
 11:38:10AM 11 **though. That's okay as long as no other witnesses**
 11:38:13AM 12 **are present.**
 11:38:16AM 13 **And I'm going to give you a little more**
 11:38:19AM 14 **explanation later about being sure not to**
 11:38:22AM 15 **communicate in any fashion where it might get to**
 11:38:25AM 16 **another witness. But for now, please recall that**
 11:38:28AM 17 **rule of exclusion.**
 11:38:31AM 18 **And the jury. I'll remind you of the**
 11:38:34AM 19 **admonition, please, all of the aspects of that.**
 11:38:37AM 20 **And I'm going to ask that the jury reassemble at**
 11:38:40AM 21 **1:15. We'll start as soon as we can after that.**
 11:38:43AM 22 **And we're in recess.**
 11:38:46AM 23 **Thank you very much.**
 11:38:49AM 24 **(Recess.)**
 01:19:52PM 25 **THE COURT: The record will show the presence**
 01:19:55PM
 01:19:58PM

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01 19 53PM 1 of the defendant, Mr. Ray, the attorneys, and the
 01 19 55PM 2 jury. The witness, Ms. Tucker, has returned to the
 01 19 58PM 3 witness stand, and she has been sworn and remains
 01 20 00PM 4 under oath, of course.

01 20 03PM 5 And, Ms. Polk, you may continue with
 01 20 05PM 6 direct examination.

01 20 05PM 7 MS. POLK: Thank you, Your Honor.

01 20 12PM 8 Q. Good afternoon, Ms. Tucker.

01 20 15PM 9 A. Good afternoon.

01 20 21PM 10 Q. Before the ceremony ended, towards the
 01 20 27PM 11 end of it, describe for us your condition both
 01 20 30PM 12 physically and mentally.

01 20 34PM 13 A. Well, physically I was exhausted, and I
 01 20 40PM 14 think mentally I was exhausted as well.

01 20 45PM 15 Q. Could you -- were you aware of anything
 01 20 47PM 16 else happening inside the tent?

01 20 49PM 17 A. Not outside of what we've spoken about.

01 20 53PM 18 Q. Was anybody talking at the end -- toward
 01 20 56PM 19 the end of the ceremony?

01 21 00PM 20 A. I don't remember.

01 21 03PM 21 Q. Do you know either way?

01 21 10PM 22 A. No. If it's true, I do not remember.

01 21 15PM 23 Q. What were you focused on toward the end
 01 21 18PM 24 of Mr. Ray's ceremony?

01 21 22PM 25 A. Well, I was focused on getting through
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01 21 30PM 1 it. I was focused on still monitoring my own body
 01 21 36PM 2 and how it was doing -- how I was doing. Liz had a
 01 21 43PM 3 fair amount of my focus as well.

01 21 49PM 4 Q. Do you know how many people were inside
 01 21 51PM 5 the tent at the end of the ceremony?

01 21 54PM 6 A. I don't.

01 21 54PM 7 Q. Do you know if other people were talking
 01 21 57PM 8 or shouting out?

01 21 58PM 9 A. I do remember -- you know -- some, not
 01 22 03PM 10 specifics. I remember sort of noises.

01 22 06PM 11 Q. And we've talked a lot about Liz Neuman.

01 22 10PM 12 And I'm going to put up on the overhead
 01 22 15PM 13 Exhibit 407. Do you know who this is?

01 22 16PM 14 A. Yes, I do.

01 22 17PM 15 Q. And who is that?

01 22 18PM 16 A. It's Liz.

01 22 21PM 17 Q. Right before we took our break for lunch,
 01 22 24PM 18 you talked about how it wasn't over -- the ceremony
 01 22 28PM 19 was over and you got out. What is your last memory
 01 22 31PM 20 of Liz Neuman inside the sweat lodge?

01 22 37PM 21 A. My last memory of anything that she said
 01 22 44PM 22 was when I asked her if she needed out and she said
 01 22 54PM 23 no. My last memory of her was that it was okay for
 01 22 57PM 24 me to go because there were others who were present
 01 22 57PM 25 and because I could get out under my own steam.

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01 23 01PM 1 That seemed like the right thing to do at the time.

01 23 04PM 2 Q. What is your last memory of when you last
 01 23 07PM 3 looked at -- saw Liz Neuman inside the tent?

01 23 19PM 4 A. I don't really have one. If I had looked
 01 23 28PM 5 and felt that she was unwell or in any danger, I
 01 23 30PM 6 wouldn't have gone anywhere. It's all very
 01 23 36PM 7 difficult memory.

01 23 37PM 8 Q. I understand. Ms. Tucker, what is
 01 23 42PM 9 your -- if you think back in your memory, when is
 01 23 44PM 10 the last time you paid attention or have any visual
 01 23 47PM 11 recall of Liz Neuman inside the tent?

01 23 51PM 12 A. After our exchange -- after our verbal
 01 23 56PM 13 exchange.

01 23 57PM 14 Q. That verbal exchange which was around
 01 23 58PM 15 what round?

01 24 00PM 16 A. Which was around the -- the seventh
 01 24 06PM 17 round.

01 24 06PM 18 Q. And you've said the ceremony lasted how
 01 24 10PM 19 many rounds?

01 24 10PM 20 A. Eight rounds.

01 24 12PM 21 Q. You said that somebody else was paying
 01 24 15PM 22 attention to or taking care of Liz Neuman as you
 01 24 18PM 23 left?

01 24 18PM 24 A. Yes.

01 24 19PM 25 Q. Do you know who that was?
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01 24 21PM 1 A. I do not.

01 24 23PM 2 Q. Do you know who the Dream Team members
 01 24 25PM 3 were for the week?

01 24 26PM 4 A. I think I could -- I think I do. Yeah.

01 24 31PM 5 Q. Were any Dream Team members helping Liz
 01 24 38PM 6 Neuman inside the tent?

01 24 36PM 7 A. I don't think so.

01 24 36PM 8 Q. And how about staff for Mr. Ray?

01 24 39PM 9 A. I don't think so. That's the -- the
 01 24 43PM 10 problem for me is that I wish so badly that I
 01 24 48PM 11 remembered. And because it was dark and because it
 01 24 48PM 12 was so intense, the person came in and the light
 01 24 53PM 13 was from the door in the same direction that they
 01 24 58PM 14 came in. And we had a very brief exchange of
 01 25 00PM 15 words. And it was more -- you know -- I'm here.
 01 25 04PM 16 And that was about it.

01 25 09PM 17 Q. You just said, "we had a brief exchange
 01 25 12PM 18 of words." Were you still going?

01 25 12PM 19 A. Yes.

01 25 14PM 20 Q. Who said that to you?

01 25 15PM 21 A. The person that came in.

01 25 19PM 22 Q. I understand. When it was time for you
 01 25 24PM 23 to get out and you got out, where did you go?

01 25 26PM 24 A. I wasn't far from the door. I went out
 01 25 30PM 25 and to my left.

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01 25 34PM 1 Q. Were you walking?

01 25 36PM 2 A. **When I got outside, yes. And then I**

01 25 38PM 3 **promptly sat down.**

01 25 40PM 4 Q. Where did you sit down?

01 25 42PM 5 A. **On the ground.**

01 25 43PM 6 Q. How far from the tent?

01 25 45PM 7 A. **Maybe eight feet.**

01 25 46PM 8 Q. Did you sit down on something?

01 25 48PM 9 A. **I think it was just on the dirt.**

01 25 50PM 10 Q. How did you feel when you first got out

01 25 52PM 11 of this ceremony?

01 25 53PM 12 A. **Well, incredibly hot. And then it felt**

01 26 01PM 13 **good to be outside.**

01 26 06PM 14 Q. Were you feeling other emotions after

01 26 08PM 15 that?

01 26 09PM 16 A. **Well, there were people on the team that**

01 26 18PM 17 **had water. And they were -- you know -- they were**

01 26 21PM 18 **dousing us. That was tremendously helpful at the**

01 26 27PM 19 **time.**

01 26 27PM 20 Q. How did you get doused?

01 26 31PM 21 A. **I think by a bucket.**

01 26 33PM 22 Q. How much water was poured on you?

01 26 35PM 23 A. **Quite a bit.**

01 26 36PM 24 Q. What was its effect on you?

01 26 38PM 25 A. **It was rather shocking, but it felt good.**

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01 26 43PM 1 Q. How long did it take for you to cool

01 26 46PM 2 down?

01 26 46PM 3 A. **A lot. Cool down to normal? A long**

01 26 51PM 4 **time. Cool down to comfortable -- you know -- I**

01 26 56PM 5 **started -- they had tables with oranges and water,**

01 27 00PM 6 **and I went and got some of that. And I was back**

01 27 04PM 7 **with Laurie helping her.**

01 27 08PM 8 Q. How long did you sit in the spot where

01 27 10PM 9 you first sat?

01 27 15PM 10 A. **At least 15 minutes.**

01 27 17PM 11 Q. And during that 15 minutes, what efforts

01 27 21PM 12 did you take or what efforts were taken to cool you

01 27 24PM 13 down?

01 27 24PM 14 A. **With the water. Like I described,**

01 27 28PM 15 **buckets of water.**

01 27 30PM 16 Q. More than one bucket?

01 27 31PM 17 A. **I think I got more than one. Yeah.**

01 27 33PM 18 Q. Do you know who was dousing you with

01 27 35PM 19 buckets of water?

01 27 38PM 20 A. **I think I remember once getting doused by**

01 27 40PM 21 **Josh.**

01 27 43PM 22 Q. And what's Josh's last name? Do you

01 27 43PM 23 know?

01 27 43PM 24 A. **I'm drawing a blank.**

01 27 48PM 25 Q. Did you get something to drink when you

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01 27 48PM 1 were first sitting down?

01 27 48PM 2 A. **Not immediately. It took a while.**

01 27 52PM 3 Q. How did you get something to drink?

01 27 56PM 4 A. **I went and got it myself.**

01 27 58PM 5 Q. You told us, then, in the first

01 28 02PM 6 15 minutes you sat in that first spot?

01 28 04PM 7 A. **Yes.**

01 28 04PM 8 Q. At what point did you become aware of

01 28 07PM 9 your surroundings?

01 28 09PM 10 A. **It took me a while -- you know -- with**

01 28 12PM 11 **the shock of the water, just taking in my**

01 28 17PM 12 **surroundings. It took me longer than you would**

01 28 24PM 13 **image to clue in that something was wrong.**

01 28 27PM 14 Q. Can you tell us in terms of minutes how

01 28 29PM 15 long it took for you to get clued in that something

01 28 32PM 16 was wrong?

01 28 32PM 17 A. **I'd say at least -- you know -- a good**

01 28 37PM 18 **five, seven minutes.**

01 28 40PM 19 Q. During the time that you were doused with

01 28 45PM 20 water, did anyone bring you a towel?

01 28 48PM 21 A. **No. Actually, I went up and I got a**

01 28 55PM 22 **towel.**

01 28 55PM 23 Q. Where did you get the towel from?

01 28 57PM 24 A. **I think it was over by the drinks and**

01 28 03PM 25 **oranges.**

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01 29 03PM 1 Q. You said that it took you some time but

01 29 06PM 2 then you became aware something was wrong. What

01 29 08PM 3 drew your attention?

01 29 11PM 4 A. **Well, first of all, there were people**

01 29 22PM 5 **around the tent. There were people going up to the**

01 29 26PM 6 **lodge. And this is when it started to click in**

01 29 30PM 7 **that there were people running into the lodge.**

01 29 33PM 8 Q. To the tent?

01 29 34PM 9 A. **Yes. Into the tent. Then I started**

01 29 38PM 10 **looking around. It was clear that they were**

01 29 42PM 11 **looking for people inside the tent. So I started**

01 29 45PM 12 **taking in what was going on around me. And when I**

01 29 48PM 13 **realized that there was the potential that**

01 29 51PM 14 **something -- someone might be inside and there**

01 29 54PM 15 **might be a problem, I got up and I went to the door**

01 29 57PM 16 **of the tent myself.**

01 30 00PM 17 **And I didn't see that there was anyone**

01 30 05PM 18 **left in the tent at that point. And so I returned**

01 30 09PM 19 **to where I was and started taking in more.**

01 30 12PM 20 Q. How much time had passed between the time

01 30 14PM 21 you came out and you got up to look back into the

01 30 18PM 22 tent?

01 30 18PM 23 A. **I think that would have been about five**

01 30 20PM 24 **to seven minutes.**

01 30 21PM 25 Q. Did you get a good look inside?

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01 30 25PM 1 **A. Yeah. I think so.**

01 30 28PM 2 **Q. Why did you think there might be someone**

01 30 31PM 3 **still in the tent?**

01 30 34PM 4 **A. Because there were -- because, like I**

01 30 37PM 5 **said, there were other people that were going in**

01 30 40PM 6 **there. And so if there was anyone that did require**

01 30 43PM 7 **help, I wanted to be able to provide it if I could.**

01 30 46PM 8 **Q. And then you testified before lunch, as**

01 30 50PM 9 **you came out of the sweat lodge you did not notice**

01 30 54PM 10 **anybody inside still?**

01 30 57PM 11 **A. I don't think I was the last person out**

01 31 00PM 12 **of the lodge. No.**

01 31 02PM 13 **Q. I'm going to put back up on the overhead**

01 31 05PM 14 **Exhibit 414. And I've had it oriented with the**

01 31 13PM 15 **entrance at the 6:00 o'clock, and the far side is**

01 31 17PM 16 **at 12:00 o'clock. From your position inside the**

01 31 24PM 17 **sweat lodge structure, how did you get out? Show**

01 31 27PM 18 **the jury.**

01 31 27PM 19 **A. I was here, and I think I went out this**

01 31 36PM 20 **way.**

01 31 38PM 21 **Q. Do you know somebody named Kirby Brown?**

01 31 42PM 22 **A. Yes.**

01 31 42PM 23 **Q. How did you know Kirby?**

01 31 45PM 24 **A. I met Kirby that week.**

01 31 48PM 25 **Q. I'm going to put up on the overhead**
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01 31 51PM 1 **Exhibit 404. Who is that?**

01 31 59PM 2 **A. That's Kirby.**

01 32 00PM 3 **Q. Do you know, Ms. Tucker, where Kirby**

01 32 03PM 4 **Brown was seated inside the structure?**

01 32 05PM 5 **A. I don't.**

01 32 06PM 6 **Q. Did you know someone named James Shore?**

01 32 09PM 7 **A. Not as well.**

01 32 10PM 8 **Q. I'm going to put up on the overhead**

01 32 12PM 9 **Exhibit 412. Do you know who that is?**

01 32 14PM 10 **A. Yes. That's James Shore.**

01 32 16PM 11 **Q. Do you know where James Shore was seated**

01 32 18PM 12 **inside this sweat lodge structure?**

01 32 20PM 13 **A. I did not.**

01 32 21PM 14 **Q. At any time during this -- Mr. Ray's**

01 32 25PM 15 **ceremony, were you aware of either of those two**

01 32 29PM 16 **individuals?**

01 32 29PM 17 **A. No, I was not.**

01 32 40PM 18 **Q. You told the jury you got up, you checked**

01 32 42PM 19 **inside this structure. Then what did you do?**

01 32 45PM 20 **A. I returned to where I was. It was -- I**

01 32 49PM 21 **was seated with Laurie again, and then I stayed**

01 32 59PM 22 **there. I think that's when I may have gone and got**

01 33 02PM 23 **a towel. She was asking for one, so I went and got**

01 33 04PM 24 **it and came back with it.**

01 33 04PM 25 **Q. Then what did you do?**
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01 33 08PM 1 **A. I wrapped it around her and I sat there**

01 33 07PM 2 **with her.**

01 33 08PM 3 **Q. And this was Laurie who had gone out**

01 33 11PM 4 **earlier?**

01 33 12PM 5 **A. Yes. Laurie, who was beside me. Right.**

01 33 21PM 6 **She had left our position.**

01 33 22PM 7 **Q. What was Laurie -- what did you observe**

01 33 25PM 8 **about Laurie when you got out?**

01 33 30PM 9 **A. Well, she was -- I don't know if her**

01 33 40PM 10 **condition at that time was very much different than**

01 33 44PM 11 **mine. She wanted a towel, and she was cold, from**

01 33 48PM 12 **hot to cold.**

01 33 49PM 13 **Q. Do you know how long -- how much time had**

01 33 52PM 14 **passed from the time that Laurie Gennari left that**

01 33 56PM 15 **ceremony until the time you were aware that she was**

01 33 59PM 16 **cold and needed a towel?**

01 34 03PM 17 **A. Well, there was the whole last round, and**

01 34 07PM 18 **then -- you know -- 5 to 10 -- the time was**

01 34 13PM 19 **stretching out. Things were moving very slowly.**

01 34 18PM 20 **Q. Did you get cold at some point?**

01 34 21PM 21 **A. No.**

01 34 24PM 22 **Q. Did you get a towel for yourself?**

01 34 28PM 23 **A. I don't remember.**

01 34 31PM 24 **Q. You're with Laurie. You got her a towel.**

01 34 38PM 25 **What happened next?**
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01 34 38PM 1 **A. Well, that's when I started looking**

01 34 40PM 2 **around more and taking in what was going on.**

01 34 43PM 3 **Q. And what did you see?**

01 34 46PM 4 **A. I saw James Shore.**

01 34 48PM 5 **Q. Where did you see James?**

01 34 51PM 6 **A. Can I show you on the diagram?**

01 34 57PM 7 **Q. Yes.**

01 35 06PM 8 **A. If I was sitting out here by -- you**

01 35 10PM 9 **know -- 8 to 10 feet beyond the screen, he was over**

01 35 20PM 10 **here. I had a line of sight.**

01 35 23PM 11 **Q. What drew your attention to James?**

01 35 26PM 12 **A. He was on the ground.**

01 35 28PM 13 **Q. But what drew your attention to him?**

01 35 36PM 14 **Were there other people on the ground?**

01 35 38PM 15 **A. Well, everybody was standing, sitting,**

01 35 42PM 16 **kneeling all around. The majority of the people**

01 35 47PM 17 **were where I was, on that side of the tent. So I**

01 35 53PM 18 **was sitting there facing the entrance. And I was**

01 35 56PM 19 **looking around. And I saw James initially, and**

01 36 04PM 20 **then I saw that there were people tending to him.**

01 36 07PM 21 **Q. What did you do?**

01 36 09PM 22 **A. At first I just couldn't believe what I**

01 36 15PM 23 **saw and --**

01 36 17PM 24 **Q. Well, tell the jury what you saw that you**

01 36 21PM 25 **couldn't believe.**
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01:36:22PM 1 **A. I think at that point there was somebody**
 01:36:27PM 2 **who was performing CPR on him.**
 01:36:38PM 3 **Q. And what did you do?**
 01:36:41PM 4 **A. Well, I think it was another participant**
 01:36:46PM 5 **that was doing it, I think. And I knew how tired I**
 01:36:50PM 6 **was. I didn't know CPR, so there is nothing I felt**
 01:36:56PM 7 **I could do to be helpful there. So I turned around**
 01:37:03PM 8 **behind us and just -- I asked somebody, does anyone**
 01:37:07PM 9 **know CPR?**
 01:37:08PM 10 **Q. Did anybody respond?**
 01:37:10PM 11 **A. I mean, people just kind of passed it**
 01:37:13PM 12 **back -- you know -- asking, do you know? And**
 01:37:18PM 13 **eventually somebody got up and ran over as well.**
 01:37:22PM 14 **Q. Did anybody appear to be in charge at**
 01:37:25PM 15 **that point?**
 01:37:28PM 16 **A. In charge? Not really. There was a lot**
 01:37:45PM 17 **going on. And I can't say that anyone was giving**
 01:38:00PM 18 **direction or -- you know -- organizing. I think**
 01:38:04PM 19 **that given the situation, it was more -- you**
 01:38:14PM 20 **know -- sort of isolated pockets. There was --**
 01:38:19PM 21 **James was there.**
 01:38:20PM 22 **Q. James?**
 01:38:21PM 23 **A. James Shore.**
 01:38:21PM 24 **Q. Okay.**
 01:38:22PM 25 **A. So there were some people gathered over**
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01:38:26PM 1 **there. It was spread out. So I can't really say**
 01:38:28PM 2 **that.**
 01:38:29PM 3 **Q. Did you know the person who was**
 01:38:31PM 4 **performing CPR on James Shore?**
 01:38:34PM 5 **A. No, I don't.**
 01:38:36PM 6 **Q. You said you thought it was a**
 01:38:37PM 7 **participant?**
 01:38:38PM 8 **A. I think so. Yeah.**
 01:38:39PM 9 **Q. Why do you think that?**
 01:38:40PM 10 **A. Just by the way they were outfitted.**
 01:38:48PM 11 **Q. Okay. After, then, you spread the word**
 01:38:51PM 12 **that does anybody know CPR, what happened?**
 01:38:54PM 13 **A. Well, somebody went over, and they**
 01:38:57PM 14 **continued to -- you know -- try to help him.**
 01:39:03PM 15 **Q. Was that somebody also a participant?**
 01:39:06PM 16 **A. The same person that came. I saw James**
 01:39:14PM 17 **Ray. He ended up over there as well.**
 01:39:16PM 18 **Q. And what did you see him do?**
 01:39:19PM 19 **A. He was -- there were a couple of people**
 01:39:24PM 20 **on either side of him, and they were conferring.**
 01:39:27PM 21 **Q. Did you hear the conversation?**
 01:39:28PM 22 **A. I was too far away.**
 01:39:31PM 23 **Q. What did you see next?**
 01:39:33PM 24 **A. I don't remember a lot from that point.**
 01:39:38PM 25 **At some point someone came and started to just move**
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01:39:41PM 1 **us out.**
 01:39:46PM 2 **Q. Did you see Liz Neuman after she was**
 01:39:50PM 3 **taken out of the tent?**
 01:39:53PM 4 **A. You know, I didn't.**
 01:40:00PM 5 **Q. Do you know if she was taken out before**
 01:40:03PM 6 **or after you got out?**
 01:40:04PM 7 **A. I believe she was taken out after me.**
 01:40:07PM 8 **Q. You didn't see her brought out?**
 01:40:09PM 9 **A. No.**
 01:40:13PM 10 **Q. Did you have concern for Liz?**
 01:40:16PM 11 **A. I did.**
 01:40:17PM 12 **Q. And why?**
 01:40:18PM 13 **A. From what happened inside.**
 01:40:27PM 14 **Q. You told the jury that Mr. Ray said Liz**
 01:40:30PM 15 **would be fine. You told the jury about your**
 01:40:32PM 16 **conversation -- your quick conversation with Liz:**
 01:40:35PM 17 **Are you fine? Yes. Do you need to get out? No.**
 01:40:38PM 18 **Why did you still have concern about Liz?**
 01:40:42PM 19 **A. Oh. I'm referring back to in the lodge.**
 01:40:51PM 20 **Q. Let's talk about outside the lodge. Did**
 01:40:56PM 21 **you feel concern for Liz at that point?**
 01:40:58PM 22 **A. At that point I was separate from her,**
 01:41:01PM 23 **and it was very chaotic. So I wasn't -- my focus**
 01:41:13PM 24 **was not there.**
 01:41:13PM 25 **Q. What was your focus on once you were**
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01:41:16PM 1 **outside?**
 01:41:17PM 2 **A. Getting cooled down, what I saw going on**
 01:41:26PM 3 **with James Shore, making sure that Laurie was okay.**
 01:41:35PM 4 **Q. Did you ever see Liz Neuman again?**
 01:41:38PM 5 **A. I did not.**
 01:41:39PM 6 **Q. Did you ever learn of her whereabouts?**
 01:41:42PM 7 **A. I did.**
 01:41:43PM 8 **Q. How did you learn that?**
 01:41:45PM 9 **A. Later that night I was informed -- or as**
 01:42:03PM 10 **a group we were informed that Liz was one of the**
 01:42:05PM 11 **people in the hospital.**
 01:42:10PM 12 **Q. And following that sweat lodge ceremony**
 01:42:12PM 13 **when you were still outside, did you hear any**
 01:42:15PM 14 **conversation about Liz?**
 01:42:18PM 15 **A. No.**
 01:42:17PM 16 **Q. What about Kirby Brown? When the sweat**
 01:42:28PM 17 **lodge ceremony was over, were you ever aware of**
 01:42:33PM 18 **Kirby Brown?**
 01:42:34PM 19 **A. No. I didn't see her.**
 01:42:36PM 20 **Q. Did you hear any conversation about**
 01:42:38PM 21 **Kirby?**
 01:42:39PM 22 **A. Well, I knew that -- going back to later**
 01:42:42PM 23 **in the evening, initially we were told that they**
 01:42:50PM 24 **were in the hospital.**
 01:42:51PM 25 **Q. When was the first time that you learned**
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01 42 54PM 1 that people were in the hospital?

01 42 55PM 2 **A. Afterwards when we were back at the room.**

01 43 03PM 3 **That was the dining hall.**

01 43 04PM 4 **Q. Do you know how James Shore got to that**

01 43 05PM 5 **spot where you saw him getting CPR?**

01 43 15PM 6 **A. No, I do not.**

01 43 15PM 7 MS. DO: Sorry to interrupt. The prosecutor

01 43 18PM 8 has put onto the projector Exhibit 404. And I

01 43 24PM 9 don't believe there is a question pending.

01 43 25PM 10 THE COURT: I'm sorry.

01 43 27PM 11 MS. DO: The prosecutor has put Exhibit 404

01 43 28PM 12 onto the projector, and there isn't a question

01 43 29PM 13 pending to that exhibit.

01 43 30PM 14 THE COURT: All right. Is it going to be

01 43 33PM 15 offered, Ms. Polk?

01 43 44PM 16 MS. POLK: Your Honor, at this time I would

01 43 48PM 17 move for the admission of Exhibits 404 and 407.

01 43 54PM 18 THE COURT: Ms. Do?

01 43 54PM 19 MS. DO: No objection, Your Honor.

01 43 56PM 20 THE COURT: Okay. 404 and 407?

01 43 56PM 21 MS. POLK: Yes.

01 44 00PM 22 THE COURT: They are admitted.

01 44 00PM 23 MS. POLK: Thank you.

01 44 06PM 24 (Exhibits 404 and 407 admitted.)

01 44 06PM 25 **Q. BY MS. POLK: How long were you at the**
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01 44 08PM 1 scene outside the sweat lodge tent before you went

01 44 12PM 2 to your room?

01 44 13PM 3 **A. Maybe 45 minutes, maybe longer.**

01 44 32PM 4 **Q. Okay. And during that 45 minutes did you**

01 44 36PM 5 **ever look for Liz Neuman?**

01 44 39PM 6 **A. I didn't.**

01 44 41PM 7 **Q. Did you ever become aware of where Liz**

01 44 45PM 8 **was?**

01 44 45PM 9 **A. No.**

01 44 48PM 10 **Q. Were you still at the scene outside this**

01 44 50PM 11 **structure when emergency responders arrived?**

01 44 55PM 12 **A. I believe so. Initially. It would**

01 45 12PM 13 **have -- yeah, I was.**

01 45 14PM 14 **Q. What did you do when the emergency**

01 45 16PM 15 **responders arrived?**

01 45 21PM 16 **A. I more or less stayed out of the way. I**

01 45 24PM 17 **didn't need any attention, and there were a number**

01 45 28PM 18 **of people that did.**

01 45 33PM 19 **Q. How long did it take for you to recover?**

01 45 37PM 20 **A. Physically?**

01 45 39PM 21 **Q. Yes.**

01 46 02PM 22 **A. I was very dehydrated. I rehydrated all**

01 46 05PM 23 **through the night. I guess it depends on what you**

01 46 08PM 24 **mean by "recover." It was a long time before I**

01 46 09PM 25 **felt like myself again.**
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01 46 12PM 1 **Q. How long?**

01 46 13PM 2 **A. Weeks.**

01 46 18PM 3 **Q. It took you weeks to feel physically like**

01 46 21PM 4 **yourself again?**

01 46 21PM 5 **A. Well, I suppose -- you know -- my energy**

01 46 24PM 6 **was low, but I suppose that wasn't just physical.**

01 46 27PM 7 **Q. What else was going on?**

01 46 28PM 8 **A. Emotionally it was very challenging, very**

01 46 32PM 9 **difficult.**

01 46 32PM 10 **Q. Why is that?**

01 46 33PM 11 **A. I'm not even sure how to answer that. It**

01 46 43PM 12 **was just very difficult on so many levels that**

01 46 49PM 13 **whole first week while Liz was in the hospital.**

01 47 04PM 14 **Q. What did you do while Liz was in the**

01 47 06PM 15 **hospital?**

01 47 07PM 16 **A. Well, she was in the hospital over a**

01 47 11PM 17 **week. So most of that time I was back at home.**

01 47 14PM 18 **Q. When was it that you left Angel Valley?**

01 47 19PM 19 **A. The next day.**

01 47 21PM 20 **Q. How did you continue to hear about Liz?**

01 47 31PM 21 **A. Well, initially Facebook was very full of**

01 47 45PM 22 **information. Then that stopped and there were**

01 47 52PM 23 **phone calls. But it was very, very sketchy. You**

01 47 55PM 24 **know, I had no direct contact with family and**

01 47 59PM 25 **friends.**
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01 48 00PM 1 **Q. Did you have an interest in knowing what**

01 48 01PM 2 **had happened to Liz?**

01 48 04PM 3 MS. DO: Objection, Your Honor. Relevance.

01 48 06PM 4 THE COURT: Sustained.

01 48 13PM 5 **Q. BY MS. POLK: Ms. Tucker, you testified**

01 48 15PM 6 **before lunch that you believed you would be safe**

01 48 18PM 7 **going into Mr. Ray's sweat lodge ceremony. Why did**

01 48 22PM 8 **you believe you would be safe?**

01 48 25PM 9 **A. It never occurred to me otherwise.**

01 48 39PM 10 **Q. You testified that you have a lengthy**

01 48 41PM 11 **history attending events by Mr. Ray. Is that true?**

01 48 46PM 12 **A. I wouldn't say that it was lengthy**

01 48 51PM 13 **compared to some. It was a year plus a little.**

01 48 58PM 14 **Q. Did you trust Mr. Ray?**

01 49 00PM 15 **A. I did.**

01 49 01PM 16 **Q. And why?**

01 49 02PM 17 **A. I had no reason not to. I'm a trusting**

01 49 14PM 18 **person. I had received a lot of benefit from the**

01 49 23PM 19 **events, and I had no reason to expect otherwise.**

01 49 30PM 20 **Q. Did Mr. Ray ever talk to you about his**

01 49 33PM 21 **training and experience to run a sweat lodge**

01 49 36PM 22 **ceremony?**

01 49 37PM 23 **A. No.**

01 49 39PM 24 **Q. Did you believe he knew what he was**

01 49 42PM 25 **doing?**
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01 49 42PM 1 A. Yes.

01 49 42PM 2 Q. Why?

01 49 43PM 3 A. Well, as far as I knew this was something

01 49 43PM 4 that they did every year. It wasn't the first

01 49 43PM 5 time. There were a lot of people around who had

01 49 58PM 6 done it before. I had never heard anything

01 50 02PM 7 negative about it. And there did not seem to be

01 50 08PM 8 any reason to be fearful or mistrusting.

01 50 16PM 9 Q. Was there discussion during the Spiritual

01 50 24PM 10 Warrior 2009 seminar about breakthroughs?

01 50 27PM 11 A. Yes.

01 50 28PM 12 Q. In what context? What did you learn?

01 50 34PM 13 A. I'm not really sure how to answer that.

01 50 45PM 14 The whole purpose for being there was to have

01 50 47PM 15 breakthroughs.

01 50 48PM 16 Q. What did you expect would happen in the

01 50 52PM 17 sweat lodge with respect to yourself personally?

01 50 54PM 18 A. I had no expectations. I had none

01 50 58PM 19 whatsoever.

01 50 59PM 20 Q. Did you expect to have a breakthrough?

01 51 04PM 21 A. My breakthroughs had already come. I

01 51 09PM 22 didn't -- I didn't consider that.

01 51 16PM 23 Q. Had you learned or talked about altered

01 51 19PM 24 experiences during the week?

01 51 26PM 25 A. I suppose so. It wasn't the focus. It

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01 51 32PM 1 wasn't my focus.

01 51 33PM 2 Q. What is an altered experience? What does

01 51 35PM 3 that mean to you?

01 51 36PM 4 A. Well, I suppose an altered experience

01 51 47PM 5 is -- there is many ways to get one -- you know --

01 51 53PM 6 through alcohol, through drugs, through different

01 51 57PM 7 other means. So -- you know -- an altered

01 52 03PM 8 experience would be something where your awareness

01 52 12PM 9 is different or altered.

01 52 14PM 10 Q. Ms. Tucker, did you have an altered

01 52 17PM 11 experience inside Mr. Ray's sweat lodge ceremony?

01 52 20PM 12 A. I did not.

01 52 22PM 13 MS. POLK: May I have a moment, Your Honor?

01 52 25PM 14 THE COURT: Yes.

01 52 43PM 15 Q. BY MS. POLK: Do you recall, Ms. Tucker,

01 52 45PM 16 the weather on October 8, Thursday, of 2009?

01 52 50PM 17 A. It was sunny, bright. I don't remember

01 52 58PM 18 the temperature.

01 53 00PM 19 Q. Do you recall when you came out of the

01 53 05PM 20 sweat lodge structure what the air temperature felt

01 53 09PM 21 like?

01 53 12PM 22 A. It felt relatively cool.

01 53 12PM 23 Q. Do you recall whether there was a breeze?

01 53 15PM 24 A. I don't think there was a breeze.

01 53 19PM 25 Q. And you told the jury about efforts that

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01 53 23PM 1 were being taken by others to cool you down. Who

01 53 27PM 2 was taking those efforts to cool you down?

01 53 30PM 3 A. It was members of the team that were

01 53 37PM 4 outside.

01 53 38PM 5 Q. Did you see anybody else getting cooled

01 53 41PM 6 down?

01 53 42PM 7 A. I did.

01 53 44PM 8 Q. Tell the jury what you saw in terms of

01 53 46PM 9 other people getting cooled down.

01 53 49PM 10 A. Well, it was the same as me. Coming out

01 53 51PM 11 and having water poured on them.

01 53 53PM 12 Q. Did you see a hose there?

01 53 56PM 13 A. Uh-huh.

01 53 57PM 14 Q. Was that hose being used as well?

01 54 00PM 15 A. I believe so. Yes.

01 54 01PM 16 Q. And can you tell us in terms of how much

01 54 04PM 17 water, how much was being used to cool people down?

01 54 10PM 18 A. Well, the ground all around was wet.

01 54 20PM 19 Q. Was -- that hose. Was it a running hose?

01 54 23PM 20 A. I think so. Yes.

01 54 26PM 21 MS. POLK: Your Honor, I have no further

01 54 28PM 22 questions. But I do move to admit Exhibit 412.

01 54 29PM 23 THE COURT: Ms. Do?

01 54 34PM 24 MS. DO: No objection.

01 54 34PM 25 THE COURT: 412 is admitted.

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01 54 38PM 1 (Exhibit 412 admitted.)

01 54 41PM 2 MS. POLK: Thank you.

01 54 41PM 3 Thank you, Ms. Tucker.

01 54 45PM 4 THE COURT: Ms. Do?

01 54 46PM 5 MS. DO: Thank you, Your Honor.

01 54 46PM 6 CROSS-EXAMINATION

01 54 48PM 7 BY MS. DO:

01 54 58PM 8 Q. Good afternoon, Ms. Tucker.

01 55 00PM 9 A. Good afternoon.

01 55 01PM 10 Q. You had indicated earlier that after you

01 55 04PM 11 broke through the first three rounds where you

01 55 07PM 12 struggled that you then got into a state where you

01 55 10PM 13 felt more comfortable?

01 55 12PM 14 A. I did.

01 55 12PM 15 Q. Okay. And you had previously described

01 55 15PM 16 that as being something called a "flow state." Do

01 55 18PM 17 you remember that?

01 55 19PM 18 A. I did use that word.

01 55 20PM 19 Q. So is it fair to say that after you broke

01 55 23PM 20 through the struggle you had in the first three

01 55 25PM 21 rounds, you then felt comfortable and remained

01 55 28PM 22 alert through the end of the ceremony?

01 55 30PM 23 A. I believe so. Yes.

01 55 32PM 24 Q. And would it be fair to say that you

01 55 36PM 25 remained alert and lucid with perhaps the exception

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01 55 38PM 1 of your perspective of time during the ceremony?

01 55 43PM 2 **A. Yes.**

01 55 44PM 3 **Q.** And is it true, then, that the first time

01 55 49PM 4 that you realized that there was a life threatening

01 55 50PM 5 situation at Angel Valley inside was when you were

01 55 53PM 6 already outside the sweat lodge ceremony and you

01 55 53PM 7 saw somebody doing CPR on James Shore?

01 55 56PM 8 **A. Yes.**

01 55 56PM 9 **Q.** You were shocked, then, I imagine, from

01 56 02PM 10 seeing that scene once you emerged from the sweat

01 56 04PM 11 lodge?

01 56 04PM 12 **A. I was.**

01 56 05PM 13 **Q.** And did it appear to you from the way

01 56 07PM 14 that people were behaving, the chaos, that other

01 56 11PM 15 people were also shocked?

01 56 13PM 16 **A. Yes.**

01 56 13PM 17 **Q.** At some point you looked over and you

01 56 16PM 18 said you had a line of sight to Mr. Shore?

01 56 18PM 19 **A. Yes.**

01 56 19PM 20 **Q.** And at some point you then saw Mr. Ray in

01 56 23PM 21 that area where Mr. Shore was being attended to;

01 56 26PM 22 correct?

01 56 26PM 23 **A. Yes.**

01 56 27PM 24 **Q.** And Mr. Shore was having CPR?

01 56 31PM 25 **A. Yes.**

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01 56 31PM 1 **Q.** When you saw Mr. Ray near Mr. Shore, he

01 56 35PM 2 was obviously concerned by the look on his face;

01 56 38PM 3 correct?

01 56 38PM 4 **A. Yes.**

01 56 40PM 5 **Q.** Would it be fair to say that Mr. Ray,

01 56 43PM 6 like everyone else, was in a state of shock?

01 56 47PM 7 MS. POLK: Objection. Calls for speculation.

01 56 48PM 8 THE COURT: Sustained.

01 56 52PM 9 **Q.** BY MS. DO: Did he look from the look on

01 56 54PM 10 his face that he was concerned?

01 56 56PM 11 MS. POLK: Objection. Calls for speculation.

01 57 01PM 12 THE COURT: Overruled.

01 57 01PM 13 You can answer that.

01 57 08PM 14 THE WITNESS: Inasmuch as I can't read his

01 57 12PM 15 mind --

01 57 12PM 16 **Q.** BY MS. DO: Sure.

01 57 14PM 17 **A. -- I would say that. Yes.**

01 57 20PM 18 **Q.** As was everyone else at the scene were?

01 57 25PM 19 **A. Yes. It was horrifying.**

01 57 27PM 20 **Q.** Okay. Let me, Miss Tucker, go back to a

01 57 33PM 21 little bit of your background. Okay. First of

01 57 35PM 22 all, you and I just met today outside of this

01 57 35PM 23 courtroom; correct?

01 57 40PM 24 **A. Yes.**

01 57 40PM 25 **Q.** But we had occasions once or twice to

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01 57 43PM 1 have spoken on the phone?

01 57 45PM 2 **A. Correct.**

01 57 45PM 3 **Q.** You also had the opportunity to talk to

01 57 48PM 4 the state with Ms. Polk?

01 57 49PM 5 **A. Yes.**

01 57 50PM 6 **Q.** And also by another deputy county

01 57 53PM 7 attorney named Steven Sisneros, I believe?

01 57 57PM 8 **A. The night of.**

01 57 58PM 9 **Q.** The night of?

01 57 58PM 10 **A. Uh-huh.**

01 57 58PM 11 **Q.** Would that be -- I'm sorry -- the

01 58 00PM 12 prosecutor, Steven Sisneros?

01 58 02PM 13 **A. Oh. Sorry. Yes.**

01 58 03PM 14 **Q.** Okay. And you've also had a few -- I

01 58 05PM 15 believe two interviews with the sheriff's

01 58 07PM 16 department; correct?

01 58 07PM 17 **A. Yes.**

01 58 08PM 18 **Q.** And it's fair to say that any time

01 58 11PM 19 someone's had questions about what you saw, what

01 58 13PM 20 you heard, and what you observed, you've been kind

01 58 16PM 21 enough to answer those questions; correct?

01 58 18PM 22 **A. Yes.**

01 58 18PM 23 **Q.** And so you don't see yourself as a

01 58 21PM 24 witness for the prosecution or a witness for the

01 58 23PM 25 defense; correct?

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01 58 28PM 1 **A. I see my role here today to come down**

01 58 31PM 2 **here and speak what I know with any amount of**

01 58 37PM 3 **confidence about what I experienced there.**

01 58 41PM 4 **Q.** You're here to tell the truth to the

01 58 45PM 5 jury.

01 58 45PM 6 **A. I am.**

01 58 45PM 7 **Q.** And you have no bias or anything in this

01 58 48PM 8 case. You're just here to tell them what happened?

01 58 51PM 9 **A. That is my choice.**

01 58 53PM 10 **Q.** All right. You had told us from the

01 58 55PM 11 beginning with Ms. Polk that you are a consultant

01 58 58PM 12 in the automotive industry?

01 59 00PM 13 **A. Yes.**

01 59 00PM 14 **Q.** You own your own business?

01 59 01PM 15 **A. Yes.**

01 59 02PM 16 **Q.** And you've had that business for some

01 59 04PM 17 time?

01 59 04PM 18 **A. Yes.**

01 59 04PM 19 **Q.** As a consultant for the automotive

01 59 08PM 20 industry, you deal with dealerships; correct?

01 59 10PM 21 **A. Correct.**

01 59 11PM 22 **Q.** Do you give them advice?

01 59 12PM 23 **A. I do.**

01 59 12PM 24 **Q.** Do you give them advice on what decisions

01 59 15PM 25 to make for their business?

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01 59 15PM 1 A. I do.

01 59 16PM 2 Q. And I assume you're good at it?

01 59 18PM 3 A. I'm pretty good at it.

01 59 20PM 4 Q. Okay. And you indicated that you had

01 59 22PM 5 attended a University in Canada. Is that the

01 59 24PM 6 equivalent of college here in the states?

01 59 26PM 7 A. Yes. I believe so.

01 59 28PM 8 Q. All right. And you have two degrees?

01 59 30PM 9 A. Yes.

01 59 32PM 10 Q. Now, you told the jury that the first

01 59 34PM 11 time you heard about Mr. Ray was when you saw this

01 59 36PM 12 movie, a DVD called "The Secret"; correct?

01 59 38PM 13 A. Yes.

01 59 40PM 14 Q. Now, I haven't seen it, and I'm sure many

01 59 42PM 15 people in this courtroom have not. The Secret is

01 59 44PM 16 actually a compilation, I believe, of 20 to 30

01 59 46PM 17 speakers; correct?

01 59 48PM 18 A. Correct.

01 59 50PM 19 Q. And so Mr. Ray was not the only person on

01 59 52PM 20 that DVD?

01 59 54PM 21 A. He was not.

01 59 56PM 22 Q. But for some reason, out of the 20 or 30

01 59 58PM 23 speakers, you were impressed with Mr. Ray?

02 00 00PM 24 A. I was. I was impressed with a couple of

02 00 02PM 25 them particularly.

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02 00 06PM 1 Q. Okay. And so what Mr. Ray said on that

02 00 08PM 2 DVD seemed to have -- I think your words were

02 00 10PM 3 "appealed to you." Is that correct?

02 00 12PM 4 A. It resonated with me.

02 00 14PM 5 Q. Okay. And what about that resonated with

02 00 16PM 6 you?

02 00 18PM 7 A. Well, the principles of bringing joy into

02 00 20PM 8 your life and practicing gratitude and being

02 00 22PM 9 responsible and accountable for what my own

02 00 24PM 10 experience of my life is appealed to me.

02 00 26PM 11 Q. Did it seem practical to you, things that

02 00 28PM 12 you could apply to your own life?

02 00 30PM 13 A. Sure, it did.

02 00 32PM 14 Q. And during the year in which you attended

02 00 34PM 15 the various events put on by Mr. Ray's company,

02 00 36PM 16 James Ray International, did you find that they

02 00 38PM 17 provided you with practical tools for improving

02 00 40PM 18 certain areas of your life?

02 00 42PM 19 A. Yes.

02 00 44PM 20 Q. Okay. And you had said something to

02 00 46PM 21 Ms. Polk. And I believe it was personal

02 00 48PM 22 development was very important to you. Is that

02 00 50PM 23 true?

02 00 52PM 24 A. Yes.

02 00 54PM 25 Q. And so when you signed up for three JRI

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02 01 26PM 1 events and you spent a little over \$15,000, was

02 01 28PM 2 that a choice that you felt you could make?

02 01 30PM 3 A. Yes. Absolutely.

02 01 32PM 4 Q. Okay. Did you feel like you had a right

02 01 34PM 5 to choose how you wanted to spend your money?

02 01 36PM 6 A. Of course.

02 01 38PM 7 Q. You had, I think, told Ms. Polk that you

02 01 40PM 8 had received tremendous benefits from attending

02 01 42PM 9 these various JRI events. Correct?

02 01 44PM 10 A. Right.

02 01 46PM 11 Q. Now, let me diverge a little bit. Have

02 01 48PM 12 you attended other similar motivational seminars or

02 01 50PM 13 workshops put on by other folks or by other

02 01 52PM 14 companies?

02 01 54PM 15 A. I had not.

02 01 56PM 16 Q. What about your consulting business? Any

02 01 58PM 17 type of corporate training?

02 02 00PM 18 A. I used to when I was an employee for

02 02 02PM 19 someone else. I used to get all kinds of training.

02 02 04PM 20 I had been in business on my own for five years,

02 02 06PM 21 and it was time for me to invest in some training

02 02 08PM 22 for myself.

02 02 10PM 23 Q. Okay. And so you chose to sort of go

02 02 12PM 24 beyond what was given to you as an employee within

02 02 14PM 25 that company. But did you find some of the

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02 02 27PM 1 training or some of the exercises that were put on

02 02 29PM 2 through your company similar to the kinds of

02 02 31PM 3 workshops that you paid for?

02 02 33PM 4 A. No. Not really.

02 02 35PM 5 Q. Okay. You have told this jury that you

02 02 37PM 6 did find a lot of practical things that you could

02 02 39PM 7 apply to your life from these JRI events. Were

02 02 41PM 8 there things that you thought were not applicable

02 02 43PM 9 for you?

02 02 45PM 10 A. Sure.

02 02 47PM 11 Q. Okay. So there were things that Mr. Ray

02 02 49PM 12 would say that resonated with you that you would

02 02 51PM 13 then grab and use in your life; correct?

02 02 53PM 14 A. Yes.

02 02 55PM 15 Q. And there were things that Mr. Ray said

02 02 57PM 16 to you that didn't make sense to you that you left

02 02 59PM 17 behind?

02 03 01PM 18 A. Correct.

02 03 03PM 19 Q. In fact, you once said something like

02 03 05PM 20 just because you don't want the tomatoes that are

02 03 07PM 21 on the platter doesn't mean --

02 03 09PM 22 MS. POLK: Objection. Hearsay, Your Honor.

02 03 11PM 23 THE COURT: Sustained.

02 03 13PM 24 Q. BY MS. DO: Have you heard the phrase,

02 03 15PM 25 just because you don't want the tomatoes that are

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02 03 33PM 1 on the platter doesn't mean you don't eat
 02 03 36PM 2 everything else or all the other good stuff?
 02 03 38PM 3 MS. POLK: Objection, Your Honor.
 02 03 40PM 4 THE COURT: Sustained.
 02 03 42PM 5 Q. BY MS. DO: Do you believe in that
 02 03 44PM 6 statement?
 02 03 46PM 7 MS. POLK: Objection.
 02 03 48PM 8 THE COURT: Sustained.
 02 03 50PM 9 Q. BY MS. DO: All right. What I'm trying
 02 03 52PM 10 to get at, Ms. Tucker, is you have -- obviously can
 02 03 54PM 11 decide as an adult for yourself; correct?
 02 03 56PM 12 A. Correct.
 02 03 58PM 13 Q. And so you can separate and sort out the
 02 04 00PM 14 things that you find to be good and useful and the
 02 04 02PM 15 things that you find not useful?
 02 04 04PM 16 A. Correct.
 02 04 06PM 17 Q. And so you didn't buy into everything
 02 04 08PM 18 Mr. Ray said; correct?
 02 04 10PM 19 A. No, I didn't.
 02 04 12PM 20 Q. After this tragedy occurred on October 8,
 02 04 14PM 21 2009, did you become aware that it received a lot
 02 04 16PM 22 of attention?
 02 04 18PM 23 A. Oh, yes. I did.
 02 04 20PM 24 Q. In fact, you mentioned something about
 02 04 22PM 25 Facebook; correct?
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02 04 26PM 1 A. Uh-huh.
 02 04 28PM 2 Q. Is that yes?
 02 04 30PM 3 A. That is a yes.
 02 04 32PM 4 Q. Was there a lot of chatter on Facebook?
 02 04 34PM 5 A. There was.
 02 04 36PM 6 Q. And to be specific, there was a lot of
 02 04 38PM 7 chatter about what had happened in Sedona on
 02 04 40PM 8 October 8; correct?
 02 04 42PM 9 A. Correct.
 02 04 44PM 10 Q. And you also became aware that there was
 02 04 46PM 11 a lot of attention about this tragedy in the news
 02 04 48PM 12 and the media; correct?
 02 04 50PM 13 A. Oh, absolutely.
 02 04 52PM 14 Q. And did you become aware that a lot was
 02 04 54PM 15 being said about the participants, like yourself,
 02 04 56PM 16 who attended the event?
 02 04 58PM 17 A. I did.
 02 05 00PM 18 Q. You became aware of words like "cult";
 02 05 02PM 19 correct?
 02 05 04PM 20 MS. POLK: Objection. Hearsay, Judge.
 02 05 06PM 21 THE COURT: Overruled.
 02 05 08PM 22 Q. BY MS. DO: You can answer.
 02 05 10PM 23 A. I certainly became aware of that.
 02 05 12PM 24 Q. Cult follower?
 02 05 14PM 25 A. Yes.
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02 05 13PM 1 Q. Brainwashed?
 02 05 15PM 2 A. Yes.
 02 05 17PM 3 Q. Mind control?
 02 05 19PM 4 A. Yes.
 02 05 21PM 5 Q. Did any of those descriptors fit you?
 02 05 23PM 6 A. No.
 02 05 25PM 7 Q. So what you became aware of after this
 02 05 27PM 8 tragedy, the way people were describing -- people
 02 05 29PM 9 who hadn't met you were describing you and other
 02 05 31PM 10 participants, did you feel that that was a
 02 05 33PM 11 distortion of who you were?
 02 05 35PM 12 MS. POLK: Objection. Foundation.
 02 05 37PM 13 THE COURT: Overruled.
 02 05 39PM 14 You may answer that if you can.
 02 05 41PM 15 THE WITNESS: It was absolutely a massive
 02 05 43PM 16 distortion.
 02 05 45PM 17 Q. BY MS. DO: Okay. So only you know
 02 05 47PM 18 yourself. How would you describe yourself?
 02 05 49PM 19 A. Well, I'm very independent. I'm very
 02 06 01PM 20 thoughtful. I am very empathetic. I can be very
 02 06 03PM 21 decisive. I'm a good person.
 02 06 05PM 22 Q. And so were many of the other
 02 06 07PM 23 participants, wouldn't you agree?
 02 06 09PM 24 A. I would absolutely agree.
 02 06 11PM 25 Q. And in the year that you attended these
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02 06 13PM 1 half a dozen JRI events, you met a lot of folks?
 02 06 15PM 2 A. I sure did.
 02 06 17PM 3 Q. Canadians like yourself?
 02 06 19PM 4 A. Yes.
 02 06 21PM 5 Q. Others from various parts of the
 02 06 23PM 6 United States?
 02 06 25PM 7 A. Yes.
 02 06 27PM 8 Q. Educated people?
 02 06 29PM 9 A. Yes.
 02 06 31PM 10 Q. Successful people?
 02 06 33PM 11 A. Many.
 02 06 35PM 12 Q. Among those people, had you ever met any
 02 06 37PM 13 doctors?
 02 06 39PM 14 A. I had.
 02 06 41PM 15 Q. In fact, at the Sedona event did you meet
 02 06 43PM 16 Dr. Jeanie Armstrong?
 02 06 45PM 17 A. Yes.
 02 06 47PM 18 Q. Did you meet another doctor -- I believe
 02 06 49PM 19 she was a dentist. Dr. Soheylya Marzvaan?
 02 07 01PM 20 A. Yes.
 02 07 03PM 21 Q. Engineers?
 02 07 05PM 22 A. I believe so.
 02 07 07PM 23 Q. Okay. Like yourself, did you meet other
 02 07 09PM 24 entrepreneurs or business people?
 02 07 11PM 25 A. Many.
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02 07 10PM 1 Q. Okay. And you would describe those
 02 07 12PM 2 people that you met in a similar manner as you have
 02 07 15PM 3 of yourself today?
 02 07 18PM 4 A. Yes.
 02 07 20PM 5 Q. And those descriptors that you read or
 02 07 22PM 6 heard about in the media did not fit those people,
 02 07 24PM 7 did it?
 02 07 26PM 8 A. It did not.
 02 07 27PM 9 Q. Now, let me move on. Ms. Tucker, I want
 02 07 30PM 10 to get to the event in question here. You signed
 02 07 33PM 11 up for the Spiritual Warrior retreat; correct?
 02 07 36PM 12 A. Uh-huh.
 02 07 37PM 13 Q. And that was months in advance of the
 02 07 40PM 14 actual event?
 02 07 43PM 15 A. It was.
 02 07 46PM 16 Q. And once you signed up, the company sent
 02 07 48PM 17 you a participant guide; is that correct?
 02 07 51PM 18 A. Yes.
 02 08 15PM 19 MS. DO: May I approach the witness, Your
 02 08 18PM 20 Honor?
 02 08 19PM 21 THE COURT: Yes.
 02 08 18PM 22 Q. BY MS. DO: Ms. Tucker, I'm going to hand
 02 08 19PM 23 you a document that's been marked as Exhibit 736.
 02 08 24PM 24 Would you please take a look at it and let me know
 02 08 27PM 25 if you recognize it.

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02 08 28PM 1 A. I do.
 02 08 28PM 2 Q. And is that the guide that was sent to
 02 08 31PM 3 you once you signed up for the event?
 02 08 33PM 4 A. As far as I can tell, yes.
 02 08 38PM 5 MS. DO: Your Honor, may I publish 736? I'm
 02 08 42PM 6 sorry. I missed a step.
 02 08 44PM 7 THE COURT: Yes.
 02 08 45PM 8 MS. DO: I'd like to move it into evidence if
 02 08 48PM 9 the state doesn't have any objection.
 02 08 49PM 10 MS. POLK: No objection, Your Honor.
 02 08 50PM 11 THE COURT: 736 is admitted.
 02 08 54PM 12 (Exhibit 736 admitted.)
 02 08 55PM 13 MS. DO: Thank you. May I publish it?
 02 08 57PM 14 THE COURT: Yes.
 02 09 30PM 15 Q. BY MS. DO: 736 is the packet of
 02 09 33PM 16 information sent to you when you signed up for the
 02 09 36PM 17 retreat; correct?
 02 09 36PM 18 A. Yes.
 02 09 37PM 19 Q. And on the second page, do you notice
 02 09 39PM 20 that the letter greeting you is dated July 2nd,
 02 09 42PM 21 2009?
 02 09 42PM 22 A. Yes.
 02 09 42PM 23 Q. Does that give you an indication of how
 02 09 45PM 24 far in advance of the retreat you received this
 02 09 48PM 25 guide?

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02 09 49PM 1 MS. POLK: Excuse me, Your Honor. The state
 02 09 52PM 2 would object to the screen being shown.
 02 09 55PM 3 MR. LI: Sorry. I hit a button.
 02 09 57PM 4 THE COURT: Ms. Do?
 02 10 12PM 5 Q. BY MS. DO: The second page of the packet
 02 10 15PM 6 is dated July 2nd, 2009; correct?
 02 10 17PM 7 A. Yes.
 02 10 17PM 8 Q. And when you got this guide, did you read
 02 10 19PM 9 it?
 02 10 19PM 10 A. I did.
 02 10 20PM 11 Q. All right. The guide also included
 02 10 22PM 12 advance copies of the waivers that you later signed
 02 10 25PM 13 once you arrived in Sedona?
 02 10 28PM 14 A. Yes.
 02 10 28PM 15 Q. That would include the waiver for the
 02 10 30PM 16 Spiritual Warrior from the company James Ray
 02 10 33PM 17 International?
 02 10 33PM 18 A. Yes.
 02 10 34PM 19 Q. Did you read that waiver?
 02 10 35PM 20 A. I did.
 02 10 38PM 21 Q. In fact, you read it completely; correct?
 02 10 38PM 22 A. I'm sure I did.
 02 10 40PM 23 Q. You also got an advance copy of the
 02 10 42PM 24 waiver that was presented by Angel Valley; correct?
 02 10 48PM 25 A. Yes.

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02 10 48PM 1 Q. Did you read that?
 02 10 47PM 2 A. I did.
 02 10 48PM 3 Q. Now, once you got to the actual retreat
 02 10 52PM 4 on October 3rd, that was the day that you all
 02 10 55PM 5 registered; correct?
 02 10 56PM 6 A. Uh-huh.
 02 10 57PM 7 Q. And -- Mina is going to need a "yes."
 02 10 59PM 8 A. Yes.
 02 11 00PM 9 Q. Thank you. You got to the retreat and
 02 11 02PM 10 you registered. And the same exact copies of the
 02 11 05PM 11 waivers were presented to you; is that correct?
 02 11 07PM 12 A. As far as I know.
 02 11 08PM 13 Q. And then you signed them?
 02 11 09PM 14 A. Yes.
 02 11 10PM 15 Q. Let's talk about some of the activities
 02 11 14PM 16 that went on during the retreat. One of the first
 02 11 17PM 17 activities occurred on the day of registration.
 02 11 19PM 18 And that would be the haircut; correct?
 02 11 21PM 19 A. Yes.
 02 11 24PM 20 Q. Okay. And I believe that was
 02 11 25PM 21 October 3rd. Is that correct?
 02 11 27PM 22 A. Yes.
 02 11 27PM 23 Q. And you said on that day the company
 02 11 34PM 24 presented the opportunity for participants to cut
 02 11 37PM 25 their hair; correct?

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02 11 38PM 1 **A. The company?**
 02 11 42PM 2 **Q. James Ray International?**
 02 11 43PM 3 **A. Yes.**
 02 11 46PM 4 **Q. And that would include Mr. Ray?**
 02 11 48PM 5 **A. Yes.**
 02 11 48PM 6 **Q. And that would include the staff that**
 02 11 48PM 7 **worked; correct?**
 02 11 48PM 8 **A. Yes.**
 02 11 48PM 9 **Q. And you decided for yourself that on that**
 02 11 54PM 10 **day you didn't want to do it?**
 02 11 57PM 11 **A. Right.**
 02 11 58PM 12 **Q. And did you on that day see a number of**
 02 12 02PM 13 **people choosing, electing, to cut their hair on**
 02 12 06PM 14 **that day?**
 02 12 06PM 15 **A. Yes.**
 02 12 06PM 16 **Q. That didn't influence you to do it;**
 02 12 09PM 17 **correct?**
 02 12 09PM 18 **A. No.**
 02 12 10PM 19 **Q. Because no amount of peer pressure is**
 02 12 13PM 20 **going to make you do something you don't want to**
 02 12 15PM 21 **do?**
 02 12 15PM 22 **A. No.**
 02 12 15PM 23 **Q. Did you receive any kind of negative**
 02 12 22PM 24 **feedback from Mr. Ray when you chose not to do it**
 02 12 25PM 25 **on the first day?**

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02 12 26PM 1 **A. I received some feedback.**
 02 12 27PM 2 **Q. Okay. And what was that feedback?**
 02 12 28PM 3 **A. He had several questions for me or**
 02 12 38PM 4 **statements.**
 02 12 38PM 5 **Q. Okay. Was it true that Mr. Ray said to**
 02 12 40PM 6 **you all, if you want to cut your hair, do it? If**
 02 12 45PM 7 **you don't, I don't care? I just want you to think**
 02 12 48PM 8 **about why not?**
 02 12 48PM 9 **A. Something along those lines.**
 02 12 49PM 10 **Q. Okay. So he told those folks who didn't**
 02 12 51PM 11 **choose to cut their hair, fine. I just want you to**
 02 12 54PM 12 **think about why you're not doing it.**
 02 12 58PM 13 **A. That may have been what was said.**
 02 13 08PM 14 **Q. Okay. And so how many days did you**
 02 13 08PM 15 **choose not to cut your hair?**
 02 13 11PM 16 **A. I think four days.**
 02 13 17PM 17 **Q. Okay. So you waited four -- pretty much**
 02 13 19PM 18 **until the end of the retreat?**
 02 13 21PM 19 **A. Yes.**
 02 13 22PM 20 **Q. Were there other folks like you who also**
 02 13 25PM 21 **waited -- waited and considered their decision?**
 02 13 28PM 22 **A. Yes.**
 02 13 32PM 23 **Q. And you didn't get excluded, I assume,**
 02 13 34PM 24 **from any of the event because you chose not to cut**
 02 13 34PM 25 **your hair?**

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02 13 35PM 1 **A. Yes.**
 02 13 35PM 2 **Q. So let me ask you about the actual**
 02 13 37PM 3 **cutting. The state has referred to it as**
 02 13 40PM 4 **"shaving." A couple of Dream Team members**
 02 13 44PM 5 **volunteered to perform the actual haircutting;**
 02 13 48PM 6 **right?**
 02 13 48PM 7 **A. Yes.**
 02 13 48PM 8 **Q. And did you see people elect to shave**
 02 13 53PM 9 **down to almost, like, bald?**
 02 13 55PM 10 **A. Yes.**
 02 13 55PM 11 **Q. Okay. A lot of men did that; correct?**
 02 13 58PM 12 **A. Yes.**
 02 13 58PM 13 **Q. And a few women?**
 02 13 58PM 14 **A. Yes.**
 02 14 00PM 15 **Q. Did you also see some women electing to**
 02 14 03PM 16 **just cut their hair to a bob?**
 02 14 05PM 17 **A. Yes.**
 02 14 06PM 18 **Q. Okay. So it wasn't that they had to**
 02 14 08PM 19 **shave down to the skin; correct?**
 02 14 10PM 20 **A. Correct.**
 02 14 10PM 21 **Q. Just cut off any portion, any length, of**
 02 14 13PM 22 **your hair; correct?**
 02 14 14PM 23 **A. Correct.**
 02 14 14PM 24 **Q. Whatever that person was comfortable**
 02 14 18PM 25 **with?**

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02 14 19PM 1 **A. Yes.**
 02 14 20PM 2 **Q. Or you assume?**
 02 14 21PM 3 **A. Yeah.**
 02 14 24PM 4 **Q. Did you also see women electing to not**
 02 14 28PM 5 **shave their hair down to the skin but to cut it**
 02 14 31PM 6 **within 1 or 2 inches?**
 02 14 33PM 7 **A. Yes.**
 02 14 34PM 8 **Q. With, like, a guard?**
 02 14 35PM 9 **A. What's a guard?**
 02 14 38PM 10 **Q. Difficult for me to explain. It's the --**
 02 14 41PM 11 **the guard goes onto the razor so it's not a shave**
 02 14 43PM 12 **down to the skin.**
 02 14 45PM 13 **A. Okay. Yeah.**
 02 14 46PM 14 **Q. Okay. And you saw that; correct?**
 02 14 47PM 15 **A. Yes.**
 02 14 48PM 16 **Q. So you waited for four days, and then you**
 02 14 52PM 17 **decided it was something you wanted to do?**
 02 14 54PM 18 **A. Yes.**
 02 14 54PM 19 **Q. Okay. But you weren't going to do it**
 02 14 57PM 20 **unless you had a reason for yourself?**
 02 14 59PM 21 **A. Yes.**
 02 15 00PM 22 **Q. Now, as I understand it, that occurred on**
 02 15 06PM 23 **October 3rd, the very first day of registration.**
 02 15 08PM 24 **A. Saturday.**
 02 15 10PM 25 **Q. And the sweat lodge ceremony occurred on**

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- 02 15 12PM 1 the last day, Thursday, October 6, correct?
- 02 15 16PM 2 **A. Correct.**
- 02 15 18PM 3 **Q.** Now, in your mind, did the haircut have
- 02 15 20PM 4 anything to do with the events that occurred inside
- 02 15 22PM 5 the ceremony and what happened after?
- 02 15 24PM 6 **A. I'm not sure I understand your question.**
- 02 15 26PM 7 **Q.** Were you thinking about the haircut when
- 02 15 28PM 8 you were inside the ceremony?
- 02 15 30PM 9 **A. No.**
- 02 15 32PM 10 **Q.** The next activity that we've heard about
- 02 15 34PM 11 is this thing called the "Samurai Game"; is that
- 02 15 36PM 12 correct?
- 02 15 38PM 13 **A. Yes.**
- 02 15 40PM 14 **Q.** And that was played, I believe, on
- 02 15 42PM 15 Tuesday, October 6?
- 02 15 44PM 16 **A. Yes.**
- 02 15 46PM 17 **Q.** And that would be two days before the
- 02 15 48PM 18 sweat lodge ceremony?
- 02 15 50PM 19 **A. Yes.**
- 02 15 52PM 20 **Q.** Were you thinking about the Samurai Game
- 02 15 54PM 21 when you were inside the sweat lodge ceremony?
- 02 15 56PM 22 **A. No.**
- 02 15 58PM 23 **Q.** During the Samurai Game, you got assigned
- 02 16 00PM 24 a role.
- 02 16 02PM 25 **A. I did.**

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- 02 16 01PM 1 **Q.** You were the priest?
- 02 16 02PM 2 **A. I was.**
- 02 16 03PM 3 **Q.** And you didn't actually think you were a
- 02 16 05PM 4 priest; correct?
- 02 16 07PM 5 **A. Correct.**
- 02 16 08PM 6 **Q.** It was a game? It was a role, a
- 02 16 10PM 7 character you were playing?
- 02 16 12PM 8 **A. Correct.**
- 02 16 14PM 9 **Q.** Much like the other characters that are
- 02 16 16PM 10 in the game?
- 02 16 18PM 11 **A. Much like the other characters.**
- 02 16 20PM 12 **Q.** And I understand the other characters
- 02 16 22PM 13 included something called a "ninja"?
- 02 16 24PM 14 **A. Yes.**
- 02 16 26PM 15 **Q.** A domeo?
- 02 16 28PM 16 **A. Yes.**
- 02 16 30PM 17 **Q.** What's the domeo?
- 02 16 32PM 18 **A. The leader of the team.**
- 02 16 34PM 19 **Q.** And it also included a sentry?
- 02 16 36PM 20 **A. Okay.**
- 02 16 38PM 21 **Q.** Do you remember that?
- 02 16 40PM 22 **A. Yes, vaguely.**
- 02 16 42PM 23 **Q.** And what's a sentry?
- 02 16 44PM 24 **A. That I do not remember.**
- 02 16 46PM 25 **Q.** Okay. And they also -- the game also

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- 02 16 42PM 1 included God, correct?
- 02 16 43PM 2 **A. Yes.**
- 02 16 45PM 3 **Q.** And that was a role or a character that
- 02 16 47PM 4 Mr. Ray played?
- 02 16 48PM 5 **A. Yes.**
- 02 16 50PM 6 **Q.** Now, did you all have a costume?
- 02 16 52PM 7 **A. No.**
- 02 16 54PM 8 **Q.** Do you remember wearing something as a
- 02 16 56PM 9 priest?
- 02 16 58PM 10 **A. I never made it to priest.**
- 02 16 59PM 11 **Q.** That's right. You got eliminated.
- 02 17 01PM 12 **A. I did.**
- 02 17 03PM 13 **Q.** All right. You told Ms. Polk that you
- 02 17 05PM 14 understood this game to be about team building; is
- 02 17 07PM 15 that correct?
- 02 17 09PM 16 **A. Yes.**
- 02 17 11PM 17 **Q.** How to consider the consequences of your
- 02 17 13PM 18 actions for your teammates?
- 02 17 15PM 19 **A. Yes.**
- 02 17 17PM 20 **Q.** All right. You also told Ms. Polk that
- 02 17 19PM 21 it was a game that would teach you how you were
- 02 17 21PM 22 going to act and make decisions for yourself; is
- 02 17 23PM 23 that correct?
- 02 17 25PM 24 **A. Yes.**
- 02 17 27PM 25 **Q.** Did you think the game was a bit silly?

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- 02 17 31PM 1 **A. I did.**
- 02 17 33PM 2 **Q.** The next event that you, then, went to
- 02 17 35PM 3 was something called a "Vision Quest"; correct?
- 02 17 37PM 4 **A. Yes.**
- 02 17 39PM 5 **Q.** And you had read about the Vision Quest
- 02 17 41PM 6 in the waiver that you had received from JRI;
- 02 17 43PM 7 correct?
- 02 17 45PM 8 **A. Yes.**
- 02 17 47PM 9 **Q.** And they had explained it as a solitary
- 02 17 49PM 10 event with fasting -- no food, no water?
- 02 17 51PM 11 **A. Uh-huh.**
- 02 17 53PM 12 **Q.** Is that a "yes"?
- 02 17 55PM 13 **A. Yes.**
- 02 17 57PM 14 **Q.** And when you read that, did that concern
- 02 17 59PM 15 you?
- 02 18 01PM 16 **A. No.**
- 02 18 03PM 17 **Q.** In fact, I think that you had a very good
- 02 18 05PM 18 experience out there on your Vision Quest?
- 02 18 07PM 19 **A. I did.**
- 02 18 09PM 20 **Q.** You found it peaceful? You found it
- 02 18 11PM 21 profound?
- 02 18 13PM 22 **A. I did.**
- 02 18 15PM 23 **Q.** You were out there for 36 hours with no
- 02 18 17PM 24 food or water. At any point did you feel thirsty?
- 02 18 19PM 25 Was that a factor for you?

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- 02:18:21PM 1 **A. No, it was not.**
- 02:18:22PM 2 **Q. Was that kind of surprising to you?**
- 02:18:24PM 3 **A. Well, we had been ingesting salt and**
- 02:18:26PM 4 **drinking a lot of water.**
- 02:18:28PM 5 **Q. Who provided you with the salt?**
- 02:18:30PM 6 **A. It was part of our welcome kit.**
- 02:18:32PM 7 **Q. The backpack that you got on the first**
- 02:18:34PM 8 **day?**
- 02:18:36PM 9 **A. Yes.**
- 02:18:38PM 10 **Q. Did that include things like a large**
- 02:18:40PM 11 **bottle that you would be able to put water in?**
- 02:18:42PM 12 **A. Yes.**
- 02:18:44PM 13 **Q. And a bag of sea salt?**
- 02:18:46PM 14 **A. Yes.**
- 02:18:48PM 15 **Q. With instructions?**
- 02:18:50PM 16 **A. Yes.**
- 02:18:52PM 17 **Q. And those instructions were hydrate,**
- 02:18:54PM 18 **hydrate, hydrate?**
- 02:18:56PM 19 **A. Yes.**
- 02:18:58PM 20 **Q. Throughout the five-day retreat, that**
- 02:19:00PM 21 **mantra was repeated by Mr. Ray; correct?**
- 02:19:02PM 22 **A. Yes, it was.**
- 02:19:04PM 23 **Q. That mantra was repeated by staff**
- 02:19:06PM 24 **members?**
- 02:19:08PM 25 **A. Yes, it was.**

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- 02:19:01PM 1 **Q. And Dream Team members?**
- 02:19:02PM 2 **A. Yes.**
- 02:19:03PM 3 **Q. And did you follow those instructions?**
- 02:19:05PM 4 **A. Yes, I did.**
- 02:19:06PM 5 **Q. You drank copious amounts of water?**
- 02:19:08PM 6 **A. Yes, I did.**
- 02:19:09PM 7 **Q. So when you were out on your Vision**
- 02:19:11PM 8 **Quest, it wasn't a factor?**
- 02:19:13PM 9 **A. No. It surprised me, but it was not.**
- 02:19:15PM 10 **Q. Okay. Now, you were taken out to your**
- 02:19:17PM 11 **spot, the Vision Quest spot, I believe, after the**
- 02:19:19PM 12 **Samurai Game; correct?**
- 02:19:21PM 13 **A. Uh-huh.**
- 02:19:23PM 14 **Q. Is that yes?**
- 02:19:25PM 15 **A. Yes.**
- 02:19:27PM 16 **Q. And that would have been Tuesday night?**
- 02:19:29PM 17 **A. Yes.**
- 02:19:31PM 18 **Q. And when you were taken out to your spot,**
- 02:19:33PM 19 **you were taken out by a Dream Team member; correct?**
- 02:19:35PM 20 **A. Yes.**
- 02:19:37PM 21 **Q. And so did you understand that these**
- 02:19:39PM 22 **Dream Team members were assigned to physically walk**
- 02:19:41PM 23 **the participants out to their spot?**
- 02:19:43PM 24 **A. Yes.**
- 02:19:45PM 25 **Q. And then when you were picked up at**

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- 02:19:47PM 1 **sunrise on Thursday, October 8, that Dream Team**
- 02:19:50PM 2 **member or another physically went and picked you**
- 02:19:52PM 3 **up; correct?**
- 02:19:53PM 4 **A. Yes.**
- 02:19:54PM 5 **Q. So somebody knew where you were at all**
- 02:19:56PM 6 **times?**
- 02:19:58PM 7 **A. Yes.**
- 02:19:59PM 8 **Q. Were you ever aware that those Vision**
- 02:20:01PM 9 **Quest spots were actually selected by someone else?**
- 02:20:03PM 10 **Do you know Amayra Hamilton?**
- 02:20:05PM 11 **A. Yes, I do.**
- 02:20:07PM 12 **Q. She's the owner of Angel Valley; correct?**
- 02:20:09PM 13 **A. Correct.**
- 02:20:11PM 14 **Q. All right. Were you ever aware that**
- 02:20:13PM 15 **Amayra Hamilton selected the spots for all of the**
- 02:20:15PM 16 **participants on the Vision Quest?**
- 02:20:17PM 17 **A. No, I was not.**
- 02:20:19PM 18 **Q. Okay. So when you were picked up**
- 02:20:21PM 19 **Thursday morning at sunrise -- obviously now you're**
- 02:20:23PM 20 **walking back and it's daylight; correct?**
- 02:20:25PM 21 **A. Yes.**
- 02:20:27PM 22 **Q. Did you realize walking back that you**
- 02:20:29PM 23 **were never really very far from where everything**
- 02:20:31PM 24 **was?**
- 02:20:33PM 25 **A. Yes, I did.**

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- 02:20:34PM 1 **Q. In fact, you kind of realized that you**
- 02:20:37PM 2 **were never really out in the wilderness?**
- 02:20:38PM 3 **A. Yes, I did.**
- 02:20:41PM 4 **Q. Okay. You then had breakfast. You**
- 02:20:43PM 5 **changed. And by the way, at breakfast what kind of**
- 02:20:45PM 6 **food was offered to you?**
- 02:20:48PM 7 **A. From what I remember, there were some**
- 02:20:50PM 8 **eggs and some breads and fruits. And I can't**
- 02:20:52PM 9 **remember if there were vegetables. It was all sort**
- 02:20:54PM 10 **of whole foods.**
- 02:21:00PM 11 **Q. And so you were offered a choice of**
- 02:21:04PM 12 **whatever it was?**
- 02:21:04PM 13 **A. Yes.**
- 02:21:04PM 14 **Q. You had breakfast? You changed? You**
- 02:21:08PM 15 **hydrated?**
- 02:21:08PM 16 **A. Yes.**
- 02:21:08PM 17 **Q. And, again, that was instructions by the**
- 02:21:11PM 18 **dream team members, the staff and Mr. Ray?**
- 02:21:12PM 19 **A. Yes.**
- 02:21:13PM 20 **Q. And then you met in a classroom; correct?**
- 02:21:15PM 21 **A. Yes.**
- 02:21:15PM 22 **Q. And in this classroom Mr. Ray addressed**
- 02:21:18PM 23 **the whole group in what you, I think, called**
- 02:21:22PM 24 **"open-frame session"?**
- 02:21:23PM 25 **A. Yes.**

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02 21 23PM 1 Q. And he, after you talked about your
 02 21 27PM 2 Vision Quest experience, started to talk about the
 02 21 28PM 3 sweat lodge ceremony; is that correct?
 02 21 31PM 4 A. Yes.
 02 21 34PM 5 Q. And Mr. Ray gave a description of what to
 02 21 34PM 6 expect; correct?
 02 21 35PM 7 A. Yes.
 02 21 35PM 8 Q. And he also gave you instructions on how
 02 21 38PM 9 to enter and how to exit?
 02 21 41PM 10 A. Yes.
 02 21 42PM 11 Q. Do you remember that?
 02 21 42PM 12 A. Uh-huh.
 02 21 43PM 13 Q. And during this presentation orientation,
 02 21 47PM 14 people raised their hands and asked questions;
 02 21 50PM 15 correct?
 02 21 50PM 16 A. Correct.
 02 21 51PM 17 Q. In fact, one woman raised her hand and
 02 21 54PM 18 asked Mr. Ray, I have high blood pressure. What so
 02 21 56PM 19 should I do? Do you remember that?
 02 21 58PM 20 A. Actually, I do.
 02 21 58PM 21 Q. And what did Mr. Ray say, if you
 02 22 02PM 22 remember?
 02 22 02PM 23 A. You know, I don't remember.
 02 22 06PM 24 Q. And do you remember him saying that it's
 02 22 13PM 25 your decision? I'm not a doctor? Something to
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02 22 18PM 1 that effect?
 02 22 19PM 2 A. Yes. That rings a bell. Yes.
 02 22 21PM 3 Q. Okay. So it's consistent with what
 02 22 23PM 4 Mr. Ray tells people about you have to know
 02 22 26PM 5 yourself? You have to make your own decision;
 02 22 28PM 6 correct?
 02 22 28PM 7 A. Correct.
 02 22 33PM 8 Q. Mr. Ray explained how hot it would be
 02 22 36PM 9 inside the sweat lodge ceremony; correct?
 02 22 38PM 10 A. He did.
 02 22 40PM 11 Q. And he didn't pull any punches, did he,
 02 22 43PM 12 in describing that?
 02 22 44PM 13 A. No. When I look back, no. He did not.
 02 22 53PM 14 Q. Do you remember him describing it as
 02 22 55PM 15 being hellaciously hot?
 02 22 57PM 16 A. Yes, I do.
 02 22 58PM 17 Q. That you're going to feel like your skin
 02 23 01PM 18 is melting off?
 02 23 05PM 19 A. Yes, I do.
 02 23 08PM 20 Q. Then he described it as being challenging
 02 23 10PM 21 and difficult; correct?
 02 23 12PM 22 A. He did.
 02 23 12PM 23 Q. And did you ever meet someone by the name
 02 23 13PM 24 of Elsa Hefstad?
 02 23 16PM 25 A. Yes.
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02 23 18PM 1 Q. A woman from Norway?
 02 23 17PM 2 A. Yes.
 02 23 17PM 3 Q. And do you remember that after Mr. Ray
 02 23 18PM 4 gave this brutally honest description of the sweat
 02 23 22PM 5 lodge ceremony, Miss Hefstad chose not to go in?
 02 23 27PM 6 A. Yes.
 02 23 27PM 7 Q. And that choice was available to her;
 02 23 30PM 8 correct?
 02 23 30PM 9 A. It's what she did.
 02 23 34PM 10 Q. Mr. Ray also described or gave
 02 23 37PM 11 instructions on how to get in and get out; is that
 02 23 37PM 12 correct?
 02 23 42PM 13 A. Yes.
 02 23 42PM 14 Q. And to get in, he wanted to have everyone
 02 23 45PM 15 enter in a very controlled fashion; correct?
 02 23 47PM 16 A. Uh-huh.
 02 23 48PM 17 Q. Is that yes?
 02 23 49PM 18 A. Yes.
 02 23 49PM 19 Q. And do you remember him telling clockwise
 02 23 51PM 20 or counterclockwise? And it's okay if you don't
 02 23 57PM 21 remember.
 02 23 57PM 22 A. My recollection is I went in that door
 02 23 59PM 23 and I went to the right.
 02 24 02PM 24 Q. Okay. And when he explained how to get
 02 24 05PM 25 out, he emphasized that these instructions on how
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02 24 09PM 1 to get out had a lot to do with safety; correct?
 02 24 12PM 2 A. He did.
 02 24 14PM 3 Q. And the other reason that he emphasized
 02 24 17PM 4 is that according to tradition, the ceremony is
 02 24 21PM 5 considered sacred?
 02 24 23PM 6 A. Yes.
 02 24 23PM 7 Q. All right. The reason relating to
 02 24 26PM 8 safety, did he talk about how it was important to
 02 24 28PM 9 exit in a controlled fashion?
 02 24 30PM 10 A. He did because there were -- the stones
 02 24 33PM 11 were in the middle.
 02 24 36PM 12 MS. DO: Okay. Let me put up a picture.
 02 24 58PM 13 Mr. Li, can I have Exhibit 520?
 02 25 37PM 14 Your Honor, may I approach the witness?
 02 25 38PM 15 THE COURT: Yes.
 02 25 40PM 16 Q. BY MS. DO: Ms. Tucker, I'm going to hand
 02 25 41PM 17 you an exhibit that's been marked as 520. Do you
 02 25 45PM 18 recognize the photo depicting the interior of the
 02 25 47PM 19 sweat lodge?
 02 25 47PM 20 A. I do.
 02 25 48PM 21 MS. DO: Your Honor, without objection from
 02 25 50PM 22 the state, may we move this into evidence?
 02 25 53PM 23 THE COURT: Yes. Exhibit 520 is admitted.
 02 25 57PM 24 (Exhibit 520 admitted.)
 02 25 57PM 25 MS. DO: Thank you. And Mr. Li has published
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02 25 58PM 1 it to the jury.

02 25 59PM 2 Q. Obviously, this photograph was taken

02 26 01PM 3 after the ceremony; correct?

02 26 03PM 4 A. I would assume so.

02 26 05PM 5 Q. And it does depict accurately the

02 26 06PM 6 interior of the sweat lodge?

02 26 07PM 7 A. Yes.

02 26 07PM 8 Q. With the exception of perhaps maybe the

02 26 10PM 9 side of the tent being pulled up?

02 26 11PM 10 A. Yes.

02 26 12PM 11 Q. Okay. In the middle -- and the lighting

02 26 13PM 12 may be poor in the picture -- do you see what is

02 26 16PM 13 the pit of the hot rocks?

02 26 21PM 14 A. Yes.

02 26 21PM 15 Q. Did Mr. Ray explain to the group in this

02 26 24PM 16 orientation that because of the hot rocks in that

02 26 27PM 17 pit it was important to leave in a controlled

02 26 31PM 18 clockwise manner?

02 26 31PM 19 A. Yes, he did.

02 26 33PM 20 Q. Did he also talk about the fact that

02 26 34PM 21 there would be lots of people in the ceremony, legs

02 26 36PM 22 would be out, arms would be out, that it was

02 26 39PM 23 important to leave in a controlled manner?

02 26 41PM 24 A. Yes.

02 26 41PM 25 Q. During that orientation Mr. Ray did say

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02 26 50PM 1 if you have to leave, then you have to leave, but

02 26 52PM 2 in this controlled manner; is that correct?

02 26 54PM 3 A. Something like that. Yes.

02 26 59PM 4 Q. After you had this orientation with

02 27 01PM 5 Mr. Ray, he then gave you the opportunity to go

02 27 04PM 6 back to your cabin and change?

02 27 06PM 7 A. Yes.

02 27 08PM 8 Q. And you then all changed into whatever

02 27 09PM 9 clothes you picked?

02 27 10PM 10 A. Yes.

02 27 10PM 11 Q. Then you met down at the sweat lodge

02 27 13PM 12 ceremony site?

02 27 13PM 13 A. Yes.

02 27 17PM 14 MS. DO: Mr. Li, may I have Exhibit 144?

02 27 30PM 15 Q. Looking at this photograph that's been

02 27 33PM 16 admitted already, Ms. Tucker, is this a photograph

02 27 36PM 17 depicting the participants lining up entering the

02 27 38PM 18 sweat lodge ceremony?

02 27 40PM 19 A. Yes.

02 27 44PM 20 Q. And I'm going to magnify this portion of

02 27 50PM 21 the photograph. Do you see the gentleman in the

02 27 53PM 22 back with the cap?

02 27 53PM 23 A. Yes, I do.

02 27 53PM 24 Q. Do you recognize him?

02 27 55PM 25 A. I think I do. Yes.

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02 27 56PM 1 Q. Who do you think he is?

02 27 58PM 2 A. I believe that's the gentleman who we

02 28 02PM 3 were told built the tent.

02 28 05PM 4 Q. By Mr. Ray?

02 28 06PM 5 A. Yes.

02 28 06PM 6 Q. So you all went down to the sweat lodge

02 28 09PM 7 site and you lined up, as we saw in this photo, and

02 28 12PM 8 Mr. Ray introduced you to the gentleman we've

02 28 16PM 9 identified?

02 28 16PM 10 A. Yes.

02 28 17PM 11 Q. Do you remember his name?

02 28 18PM 12 A. I think his name was Ted.

02 28 19PM 13 Q. And Mr. Ray explained that Ted would be

02 28 22PM 14 tending to the fire; correct?

02 28 22PM 15 A. Yes.

02 28 23PM 16 Q. Mr. Ray also told you all that he was the

02 28 25PM 17 one who built the structure?

02 28 26PM 18 A. Yes.

02 28 27PM 19 Q. And that you all should treat him with

02 28 30PM 20 respect? And, in fact, I think he encouraged tips.

02 28 33PM 21 A. He did. Yes.

02 28 34PM 22 Q. Now, I want to move to when you're inside

02 28 38PM 23 the sweat lodge and talk about your experience,

02 28 41PM 24 what you went through mentally and physically.

02 28 44PM 25 Okay?

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02 28 45PM 1 A. Okay.

02 28 45PM 2 Q. You indicated that you went in with some

02 28 50PM 3 close friends nearby.

02 28 52PM 4 A. Yes.

02 28 52PM 5 Q. Daniell Granquist --

02 28 52PM 6 A. Yes.

02 28 55PM 7 Q. -- and Laurie Gennari; is that correct?

02 28 55PM 8 A. Yes.

02 28 57PM 9 Q. Were these people you had met at other

02 28 59PM 10 events or had you just met them that week?

02 29 00PM 11 A. No. I met them through the course of a

02 29 03PM 12 year.

02 29 03PM 13 Q. And are those folks, Daniell and Laurie,

02 29 06PM 14 examples of the kinds of people that you described

02 29 09PM 15 earlier?

02 29 09PM 16 A. Yes, they are.

02 29 10PM 17 Q. You went into the lodge, and you believe

02 29 13PM 18 you went to the right. But ultimately you ended

02 29 16PM 19 up, if we're looking at the diagram as a clock, at

02 29 21PM 20 the 9:00 o'clock position?

02 29 22PM 21 A. Yes.

02 29 23PM 22 Q. And you sat originally between Laurie

02 29 25PM 23 Gennari and Daniell Granquist?

02 29 27PM 24 A. Yes.

02 29 27PM 25 Q. And at some point Liz Neuman scooted in

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02 29 33PM 1 the middle between you and Laurie Gennari?

02 29 34PM 2 **A. Yes.**

02 29 37PM 3 **Q. You were aware after -- so you had met**

02 29 41PM 4 **Liz several times before; correct?**

02 29 43PM 5 **A. Yes.**

02 29 43PM 6 **Q. And how would you describe her?**

02 29 46PM 7 **A. She was wonderful. She was a very**

02 29 51PM 8 **loving, openhearted, sincere, authentic, caring,**

02 29 58PM 9 **compassionate individual.**

02 30 01PM 10 **Q. Someone that you became friends with?**

02 30 03PM 11 **A. I can't say that we were close friends.**

02 30 10PM 12 **I think over time we definitely could have been.**

02 30 17PM 13 **She was on the team at a lot of the events that I**

02 30 24PM 14 **attended as a participant.**

02 30 25PM 15 **Q. You mean the Dream Team?**

02 30 27PM 16 **A. Yes.**

02 30 27PM 17 **Q. And what did you understand was the**

02 30 29PM 18 **purpose of the Dream Team?**

02 30 32PM 19 **A. The purpose of the Dream Team was to help**

02 30 39PM 20 **facilitate the event, was to help people at**

02 30 44PM 21 **different times with their breakthroughs, if need**

02 30 49PM 22 **be. They had different roles.**

02 30 51PM 23 **Q. And they were there to represent James**

02 30 54PM 24 **Ray International?**

02 30 55PM 25 **A. Yes.**

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02 30 56PM 1 **Q. Had Liz helped you as a Dream Team member**

02 30 58PM 2 **at other events before the Sedona events?**

02 31 01PM 3 **A. Yes. A little bit. Yeah.**

02 31 02PM 4 **Q. All right. And over the time that you**

02 31 06PM 5 **got to know her, would you describe Liz as being**

02 31 09PM 6 **independent, strong willed, or anything like that?**

02 31 14PM 7 **How would you describe her?**

02 31 15PM 8 **A. That was my impression of her. She**

02 31 21PM 9 **seemed like a strong, capable individual.**

02 31 24PM 10 **Q. Was she someone that you felt you could**

02 31 27PM 11 **trust?**

02 31 27PM 12 **A. Yes.**

02 31 27PM 13 **Q. So when she scooted in between you and**

02 31 32PM 14 **Laurie Gennari, it really gave you some comfort?**

02 31 34PM 15 **A. It did.**

02 31 34PM 16 **Q. It eased the nerves that you were**

02 31 38PM 17 **feeling?**

02 31 38PM 18 **A. It did.**

02 31 38PM 19 **Q. And Liz, then, using your words, I**

02 31 42PM 20 **believe, began to coach you and Daniell and Laurie;**

02 31 45PM 21 **correct?**

02 31 48PM 22 **A. Yes.**

02 31 50PM 23 **Q. To help you guys since this was your**

02 31 51PM 24 **first experience?**

02 31 51PM 25 **A. Yes.**

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02 31 51PM 1 **Q. Did you know that Liz had actually been**

02 31 53PM 2 **in that same sweat lodge ceremony with Mr. Ray**

02 31 59PM 3 **many, many years before?**

02 32 00PM 4 **A. I know she had done it at least a couple**

02 32 02PM 5 **of other times.**

02 32 03PM 6 **Q. At the same event?**

02 32 04PM 7 **A. Yes.**

02 32 04PM 8 **Q. And was that part of the reason why you**

02 32 06PM 9 **felt comforted that someone experienced, a veteran,**

02 32 10PM 10 **was sitting next to you?**

02 32 11PM 11 **A. Yes.**

02 32 12PM 12 **Q. So she coached you and she gave you a**

02 32 14PM 13 **number of different instructions on what to do if**

02 32 17PM 14 **the intensity got to be too much?**

02 32 20PM 15 **A. Yes.**

02 32 20PM 16 **Q. And one of them is lying down and getting**

02 32 22PM 17 **close to the earth?**

02 32 24PM 18 **A. Yes.**

02 32 24PM 19 **Q. Do you remember Mr. Ray also saying that**

02 32 26PM 20 **in the orientation heat rises and it helps to get**

02 32 32PM 21 **low to the ground?**

02 32 33PM 22 **A. My memory on that is more about Liz than**

02 32 37PM 23 **James.**

02 32 37PM 24 **Q. All right. And she also said it would**

02 32 38PM 25 **help if you sat in a manner with your head towards**

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02 32 43PM 1 **the exterior versus pointed in towards the pit?**

02 32 48PM 2 **A. Yes.**

02 32 46PM 3 **Q. She also, as a Dream Team member -- and**

02 32 50PM 4 **by the way, do the Dream Team members wear**

02 32 53PM 5 **something throughout these events to identify**

02 32 55PM 6 **themselves to participants?**

02 32 56PM 7 **A. Typically they wore a colored T-shirt.**

02 33 02PM 8 **Q. Okay. That had "JRI Dream Team" member**

02 33 04PM 9 **on it?**

02 33 05PM 10 **A. Yes.**

02 33 06PM 11 **Q. Liz, then, also came up with what I'm**

02 33 08PM 12 **going to call a "buddy system" for you guys to use;**

02 33 12PM 13 **right?**

02 33 12PM 14 **A. Yes.**

02 33 12PM 15 **Q. And you talked about tapping on each**

02 33 13PM 16 **other and taking care of each other?**

02 33 15PM 17 **A. Yes.**

02 33 16PM 18 **Q. And for the most part, you did that**

02 33 22PM 19 **through the ceremony?**

02 33 24PM 20 **A. Yes.**

02 33 24PM 21 **Q. You tapped on Liz? Liz tapped on you?**

02 33 27PM 22 **A. Yes.**

02 33 27PM 23 **Q. Daniell tapped on you, and you tapped on**

02 33 29PM 24 **her?**

02 33 30PM 25 **A. Yes.**

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02 33 30PM 1 Q. All right. You told Ms. Polk earlier
02 33 36PM 2 that you were physically uncomfortable in the first
02 33 38PM 3 round. Were you physically uncomfortable based
02 33 40PM 4 upon the sitting position that you were in as
02 33 42PM 5 opposed to the heat in the first round?

02 33 48PM 6 A. It was truly a combination of both.

02 33 55PM 7 Q. Okay. And you described that you went
02 33 57PM 8 through this sort of struggle the first three
02 34 00PM 9 rounds?

02 34 00PM 10 A. Yes.

02 34 00PM 11 Q. And you had difficulty with your
02 34 02PM 12 breathing?

02 34 02PM 13 A. Yes.

02 34 03PM 14 Q. And you said to yourself in your mind,
02 34 07PM 15 not out loud; correct?

02 34 08PM 16 A. Correct.

02 34 09PM 17 Q. You said to yourself in your mind that if
02 34 12PM 18 I don't take control of this, I'm going to have to
02 34 14PM 19 leave?

02 34 16PM 20 A. Yes.

02 34 17PM 21 Q. Okay. And you knew at that point that if
02 34 21PM 22 you had to leave, you had to leave?

02 34 22PM 23 A. Yes.

02 34 23PM 24 Q. And you knew that if you had to leave,
02 34 25PM 25 you had a choice to leave?

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02 34 26PM 1 A. Yes.

02 34 28PM 2 Q. And you knew that if you felt you were in
02 34 29PM 3 danger, you were out of there?

02 34 31PM 4 A. Yes.

02 34 33PM 5 Q. Now, you were able to control your
02 34 36PM 6 breathing. You got it shallower?

02 34 38PM 7 A. Yes.

02 34 39PM 8 Q. And you got it slowed down?

02 34 42PM 9 A. Actually, what I had been trying to do is
02 34 45PM 10 control my breath and breathe long and deep, and
02 34 51PM 11 the change was more towards just allowing a
02 34 57PM 12 shallower, smoother, easier breath.

02 34 58PM 13 Q. And that helped?

02 35 00PM 14 A. Uh-huh.

02 35 00PM 15 Q. It made all the difference?

02 35 02PM 16 A. It made all the difference.

02 35 03PM 17 Q. And you were able to, then, complete the
02 35 07PM 18 ceremony from round 3 to round 8 with all that
02 35 12PM 19 distress you felt gone?

02 35 13PM 20 A. My own physical distress, yes.

02 35 14PM 21 Q. Yes. Your own physical distress all
02 35 18PM 22 gone?

02 35 18PM 23 A. Yes.

02 35 18PM 24 Q. But you were able to, as you described
02 35 20PM 25 both to Ms. Polk and to my earlier questions,

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02 35 24PM 1 remain alert and lucid except for perhaps

02 35 27PM 2 perception of time?

02 35 28PM 3 A. Yes.

02 35 28PM 4 Q. Once you got into this flow state and
02 35 34PM 5 even when you got out of the sweat lodge, you never
02 35 36PM 6 actually had any medical problems that required
02 35 40PM 7 medical attention; correct?

02 35 41PM 8 A. I did not.

02 35 41PM 9 Q. You didn't feel any physical symptoms?

02 35 44PM 10 A. I did not.

02 35 45PM 11 Q. So I take it, then, you were not one of
02 35 48PM 12 the folks who went to the hospital that night?

02 35 51PM 13 A. I did not.

02 35 53PM 14 Q. Now, I want to move to your experience
02 36 02PM 15 with Liz Neuman next to you. And I recognize
02 36 05PM 16 that's difficult for you. So if you need a break,
02 36 08PM 17 please tell me.

02 36 08PM 18 A. Okay.

02 36 10PM 19 Q. Okay. At some point around round 4 or 5,
02 36 15PM 20 you said Liz changed her position contrary to the
02 36 18PM 21 advice she had given you, Daniell, and Laurie?

02 36 21PM 22 A. Yes.

02 36 21PM 23 Q. And that's what first concerned you?

02 36 25PM 24 A. It did.

02 36 27PM 25 Q. So once you saw that, you, then, nudged
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02 36 32PM 1 Liz to kind of motion for her to come back; is that
02 36 32PM 2 correct?

02 36 37PM 3 A. At first it was more just continuing to
02 36 39PM 4 tap because that's what we had been doing.

02 36 43PM 5 Q. Okay.

02 36 44PM 6 A. And I found that I was paying more
02 36 52PM 7 attention to where she was at than I was to
02 36 56PM 8 anything else that was -- you know -- may or may
02 36 59PM 9 not have been going on. And so I did make motion
02 37 10PM 10 to try to get her to come back.

02 37 13PM 11 Q. And when you made that motion to try and
02 37 15PM 12 get her to come back, she shook you off is what you
02 37 18PM 13 said?

02 37 19PM 14 A. Yes, she did.

02 37 19PM 15 Q. And then around the sixth round, Liz
02 37 22PM 16 changed her position again?

02 37 23PM 17 A. She did.

02 37 23PM 18 Q. And this is the one where she then got up
02 37 26PM 19 and moved to the front of your feet --

02 37 28PM 20 A. Yes.

02 37 29PM 21 Q. -- and then leaned back on your legs?

02 37 31PM 22 A. Yes.

02 37 33PM 23 Q. And that occurred around the sixth round?

02 37 36PM 24 A. I believe so. Yes.

02 37 37PM 25 Q. All right. So at this point, because of
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02 37 39PM 1 the way she's sitting, her weight on you, that
 02 37 44PM 2 caused you some discomfort?
 02 37 45PM 3 **A. It did some. Yes.**
 02 37 47PM 4 **Q.** And that's when you shifted and then
 02 37 53PM 5 pulled your knees to the right and went horizontal
 02 37 53PM 6 to the ground; right?
 02 37 54PM 7 **A. Yes.**
 02 37 55PM 8 **Q.** Laurie Gennari also pitched in to try and
 02 37 58PM 9 put her weight in to help support Liz; is that
 02 37 58PM 10 correct?
 02 38 03PM 11 **A. Yes.**
 02 38 03PM 12 **Q.** At some point that became too much for
 02 38 06PM 13 her?
 02 38 06PM 14 **A. I can't speak to that.**
 02 38 07PM 15 **Q.** At some point Laurie Gennari decided she
 02 38 10PM 16 had enough and she got up and she left?
 02 38 12PM 17 **A. Yes.**
 02 38 12PM 18 **Q.** And that was before the ceremony
 02 38 16PM 19 concluded?
 02 38 17PM 20 **A. Yes.**
 02 38 17PM 21 **Q.** Your friend Daniell Granquist at some
 02 38 19PM 22 point also decided and got up and left early; is
 02 38 19PM 23 that correct?
 02 38 22PM 24 **A. Yes.**
 02 38 22PM 25 **Q.** So now you're in the seventh round. And
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02 38 27PM 1 I believe you told Ms. Polk that Liz and her
 02 38 30PM 2 condition continued to puzzle you. Is that
 02 38 30PM 3 correct?
 02 38 35PM 4 **A. Yes.**
 02 38 38PM 5 **Q.** And so were you still tapping her at this
 02 38 38PM 6 point?
 02 38 39PM 7 **A. I'd say intermittently.**
 02 38 44PM 8 **Q.** And intermittently did she tap back?
 02 38 48PM 9 **A. She was seated in front of me. It was a**
 02 38 54PM 10 **lot easier for me to reach her than for her to**
 02 38 57PM 11 **reach me. Her back was on my shins.**
 02 39 01PM 12 **Q.** Sure. Did she at any point reach back
 02 39 06PM 13 and tap you?
 02 39 06PM 14 **A. You know, after that point I don't**
 02 39 12PM 15 **remember that she did.**
 02 39 15PM 16 **Q.** Do you remember that she was breathing at
 02 39 18PM 17 this point?
 02 39 17PM 18 **A. Yes.**
 02 39 17PM 19 **Q.** And it is at this point that you
 02 39 22PM 20 indicated that the flap was open?
 02 39 24PM 21 **A. Well, it opened at intervals.**
 02 39 24PM 22 **Q.** Okay. You then called out to Mr. Ray --
 02 39 37PM 23 **A. Yes.**
 02 39 37PM 24 **Q.** -- that you were concerned about Liz?
 02 39 38PM 25 **A. I did.**

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02 39 38PM 1 **Q.** Did you give him any -- well, in the
 02 39 42PM 2 first instance you didn't get a response?
 02 39 45PM 3 **A. Correct.**
 02 39 45PM 4 **Q.** Were you exhausted at this point?
 02 39 48PM 5 **A. I was tired. Yeah.**
 02 39 57PM 6 **Q.** And you used a normal voice, you
 02 39 58PM 7 described?
 02 39 58PM 8 **A. I did.**
 02 40 00PM 9 **Q.** So you're not sure if your voice reached
 02 40 03PM 10 Mr. Ray?
 02 40 03PM 11 **A. The first time I wasn't sure.**
 02 40 05PM 12 **Q.** Because you got no response back?
 02 40 06PM 13 **A. Correct.**
 02 40 07PM 14 **Q.** And so you propped yourself up, got your
 02 40 11PM 15 voice up, and you said again Mr. Ray -- or to James
 02 40 17PM 16 you're concerned about Liz?
 02 40 18PM 17 **A. Yes.**
 02 40 18PM 18 **Q.** Were those your words? This is Laura?
 02 40 22PM 19 I'm concerned about Liz?
 02 40 23PM 20 **A. I said, James, it's Laura. I'm concerned**
 02 40 27PM 21 **about Liz.**
 02 40 28PM 22 **Q.** Did you give him any more information
 02 40 30PM 23 than those words?
 02 40 31PM 24 **A. I did not.**
 02 40 31PM 25 **Q.** And then you got a response back from
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02 40 34PM 1 Mr. Ray saying -- you know -- Liz has done this
 02 40 36PM 2 many times before. She knows what she's doing. Is
 02 40 38PM 3 that correct?
 02 40 38PM 4 **A. Yes.**
 02 40 38PM 5 **Q.** When Mr. Ray said that, do you have any
 02 40 41PM 6 idea from what you saw and what you heard whether
 02 40 45PM 7 or not Mr. Ray had his eyes on Liz?
 02 40 47PM 8 **A. No. I couldn't speak to that. I was --**
 02 40 50PM 9 **laid back down.**
 02 40 51PM 10 **Q.** Okay. So you're not sure whether or not
 02 40 54PM 11 Mr. Ray even saw Liz when this conversation was
 02 40 56PM 12 taking place between you and him?
 02 40 58PM 13 **A. Correct.**
 02 41 03PM 14 **Q.** So then after that was said, you, then,
 02 41 06PM 15 decided you would ask Liz yourself; is that
 02 41 08PM 16 correct?
 02 41 08PM 17 **A. Yes.**
 02 41 09PM 18 **Q.** And you asked her -- well, first, you
 02 41 11PM 19 reached and you grabbed her --
 02 41 12PM 20 **A. Yes.**
 02 41 13PM 21 **Q.** -- on her shoulder?
 02 41 14PM 22 **A. Yes.**
 02 41 14PM 23 **Q.** And so you reached and grabbed her
 02 41 17PM 24 shoulder to get her attention. And you said, Liz,
 02 41 20PM 25 are you okay?

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02 41 21PM 1 **A. Yes.**

02 41 21PM 2 **Q.** Do you remember whether or not you used

02 41 26PM 3 your normal voice?

02 41 31PM 4 **A. I imagine.**

02 41 37PM 5 **Q.** Okay. And when you asked her that simple

02 41 40PM 6 question -- Liz, are you okay -- she responded to

02 41 40PM 7 you, yes?

02 41 40PM 8 **A. Yes.**

02 41 42PM 9 **Q.** There was no uncertainty in that yes, was

02 41 44PM 10 there?

02 41 45PM 11 **A. Not that I sensed.**

02 41 49PM 12 **Q.** It was prompt?

02 41 50PM 13 **A. It was.**

02 41 51PM 14 **Q.** It was clear?

02 41 53PM 15 **A. It was.**

02 41 54PM 16 **Q.** And then the next question you asked her

02 41 56PM 17 was, Liz, do you need to get out?

02 41 58PM 18 **A. Yes.**

02 41 59PM 19 **Q.** And you believe you were clear in your

02 42 01PM 20 question; correct?

02 42 02PM 21 **A. I believe I was.**

02 42 03PM 22 **Q.** And to that question Liz said?

02 42 06PM 23 **A. She said no.**

02 42 08PM 24 **Q.** And that answer was prompt?

02 42 10PM 25 **A. Yes.**

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02 42 11PM 1 **Q.** And that answer was clear?

02 42 12PM 2 **A. It was.**

02 42 12PM 3 **Q.** No hesitation?

02 42 14PM 4 **A. No. Nothing unusual.**

02 42 18PM 5 **Q.** So based upon the clear, simple questions

02 42 21PM 6 you asked her and the clear, prompt responses you

02 42 24PM 7 received, did you accept her answer?

02 42 26PM 8 **A. I did.**

02 42 27PM 9 **Q.** You trusted that she knew what she was

02 42 32PM 10 telling you?

02 42 33PM 11 **A. I did.**

02 42 34PM 12 **Q.** Let me ask you about other people inside

02 42 45PM 13 the sweat lodge ceremony. I understand you were

02 42 47PM 14 sitting in the 9:00 o'clock position near Liz, near

02 42 55PM 15 Laurie Gennari, and Daniell Granquist. And as you

02 42 55PM 16 told Ms. Polk, you weren't aware of where Kirby

02 42 58PM 17 Brown or James Shore were inside the ceremony; is

02 43 02PM 18 that correct?

02 43 02PM 19 **A. Correct.**

02 43 03PM 20 **Q.** Is it true that when the flap is down

02 43 05PM 21 that it is very dark inside?

02 43 06PM 22 **A. Very dark.**

02 43 07PM 23 **Q.** And that at least for a good portion of

02 43 08PM 24 the ceremony there was chanting going on?

02 43 14PM 25 **A. In the beginning.**

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02 43 16PM 1 **Q.** Okay. And what were people saying? What

02 43 18PM 2 were people chanting?

02 43 20PM 3 **A. I don't really remember. You know, it**

02 43 30PM 4 **was led. I'm not -- I don't really like to chant,**

02 43 36PM 5 **so I didn't participate in that.**

02 43 38PM 6 **Q.** You kind of don't like that "om" chanting

02 43 42PM 7 part of the ceremony.

02 43 43PM 8 **A. Well, it wasn't om chanting. But it**

02 43 45PM 9 **was --**

02 43 45PM 10 **Q.** What kind of chanting?

02 43 45PM 11 **A. It was -- you know -- repetitive. From**

02 43 49PM 12 **what I remember, the meaning of what was being**

02 43 54PM 13 **chanted was -- you know -- positive. I'm just not**

02 44 00PM 14 **a chanter.**

02 44 01PM 15 **Q.** Okay. Were other people putting out

02 44 04PM 16 what -- I believe we've heard the term "intention,"

02 44 06PM 17 what they committed to improve in their life?

02 44 09PM 18 **A. Yes.**

02 44 09PM 19 **Q.** Okay. And that's the kind of chanting

02 44 11PM 20 that was going on?

02 44 12PM 21 **A. It was more of a led chant.**

02 44 16PM 22 **Q.** Okay. So this environment wasn't for the

02 44 21PM 23 most part of the ceremony a quiet, still

02 44 22PM 24 environment?

02 44 24PM 25 **A. Not in the beginning. No.**

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02 44 25PM 1 **Q.** And the only light that would be admitted

02 44 27PM 2 during the time the flap was closed came from the

02 44 28PM 3 redness of the rocks?

02 44 30PM 4 **A. Yes.**

02 44 31PM 5 **Q.** Because you were focused in on your

02 44 38PM 6 section, you had no idea what was going on with any

02 44 41PM 7 one of the other 54 participants in the ceremony;

02 44 41PM 8 is that correct?

02 44 45PM 9 **A. That's correct.**

02 44 45PM 10 **Q.** Do you know how many people were between

02 44 49PM 11 you and Mr. Ray at the door, the 9:00 o'clock to

02 44 52PM 12 6:00 o'clock position?

02 44 54PM 13 **A. I could.**

02 44 58PM 14 **Q.** Give me your best estimate, if you could?

02 45 01PM 15 **A. I can estimate. There were probably 8 or**

02 45 06PM 16 **10 people.**

02 45 08PM 17 **Q.** Between you -- where you were at the

02 45 09PM 18 9:00 o'clock and where Mr. Ray was at the

02 45 12PM 19 6:00 o'clock -- would it help to see the diagram?

02 45 16PM 20 **A. Sure.**

02 45 27PM 21 **Q.** Okay. And I believe that's the way that

02 45 28PM 22 Ms. Polk had been orienting it, so I don't want to

02 45 32PM 23 confuse you. Okay. So the entrance is down here

02 45 38PM 24 at the 6:00 o'clock?

02 45 41PM 25 **A. Uh-huh.**

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02 45 41PM 1 Q. All right. Can you press the screen --

02 45 41PM 2 A. **Do you mean there?**

02 45 45PM 3 Q. -- to indicate the entrance?

02 45 45PM 4 Yes.

02 45 45PM 5 Thank you. You've done that.

02 45 48PM 6 Now, where are you at the 9:00 o'clock

02 45 51PM 7 position? So in between those two dots that you've

02 45 55PM 8 indicated, you believe there were about 8 to 10

02 45 58PM 9 people; is that correct?

02 45 58PM 10 A. **I believe so. And I think the door was**

02 46 00PM 11 **also in between --**

02 46 00PM 12 Q. Okay.

02 46 00PM 13 A. **-- if you run around the radius.**

02 46 03PM 14 Q. Were you aware, then, given where you

02 46 07PM 15 were seated, the 9:00 o'clock position, with the

02 46 08PM 16 pit in the middle, of what was going on in the

02 46 12PM 17 sweat lodge ceremony at the 3:00 o'clock position?

02 46 15PM 18 A. **Absolutely not.**

02 46 16PM 19 Q. And was that because of the darkness?

02 46 17PM 20 A. **Yes. It was extremely dark.**

02 46 20PM 21 Q. And the distance between you and that

02 46 22PM 22 section?

02 46 23PM 23 A. **Yes.**

02 46 23PM 24 Q. Do you know approximately what the

02 46 26PM 25 circumference -- not the circumference, the

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02 46 28PM 1 diameter is of the ceremony?

02 46 33PM 2 A. **No.**

02 46 33PM 3 Q. All right. So at no time did you hear

02 46 37PM 4 anyone inside the sweat lodge ceremony say

02 46 40PM 5 something is wrong with Kirby Brown?

02 46 42PM 6 A. **I did not.**

02 46 43PM 7 Q. You at no time heard someone say

02 46 47PM 8 something is wrong with James Shore?

02 46 48PM 9 A. **I did not.**

02 46 49PM 10 Q. Or any other participants?

02 46 51PM 11 A. **I did not.**

02 46 52PM 12 Q. Did you ever hear anyone inside the sweat

02 46 55PM 13 lodge ceremony say so-and-so is passed out?

02 47 00PM 14 A. **Not that I heard.**

02 47 00PM 15 Q. Did you ever hear anyone inside the

02 47 04PM 16 ceremony say so-and-so is unconscious?

02 47 08PM 17 A. **I did not.**

02 47 08PM 18 Q. If you had heard those words,

02 47 10PM 19 Ms. Tucker -- so-and-so is passed out or so-and-so

02 47 15PM 20 is unconscious -- that would have changed

02 47 17PM 21 everything for you inside the ceremony?

02 47 21PM 22 A. **It certainly would have shifted my**

02 47 21PM 23 **perspective.**

02 47 22PM 24 Q. To what?

02 47 26PM 25 A. **To let's get out of here.**

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02 47 31PM 1 Q. If you had recognized something to be a

02 47 34PM 2 life-threatening situation, no ritual, no ceremony

02 47 38PM 3 would have stopped you from getting help?

02 47 40PM 4 A. **Absolutely not.**

02 47 48PM 5 Q. My last question for you, Ms. Tucker, is

02 47 50PM 6 about Liz. I image that it's been very difficult

02 47 55PM 7 for you in the last 15 months. And having been

02 48 03PM 8 right next to Liz, you must have thought about this

02 48 06PM 9 over and over and over.

02 48 08PM 10 A. **There is hardly a day that goes by where**

02 48 12PM 11 **I don't think about it.**

02 48 14PM 12 Q. And when you think about the questions

02 48 19PM 13 you asked and the answers you heard, if you had

02 48 25PM 14 perceived that Liz Neuman was in a life-threatening

02 48 31PM 15 situation, what would you have done?

02 48 33PM 16 A. **I would have absolutely done everything**

02 48 44PM 17 **that I could to help her and anyone else that was**

02 48 51PM 18 **at risk.**

02 48 53PM 19 Q. And you didn't because you didn't see

02 48 55PM 20 that risk; is that correct?

02 48 58PM 21 A. **I went by what she told me. I went by**

02 49 08PM 22 **how -- you know -- initially when I spoke out to**

02 49 20PM 23 **Mr. Ray, I still wasn't satisfied. So I asked her.**

02 49 27PM 24 **And I went by what she said. I had no idea that**

02 49 35PM 25 **there was any cause for immediate concern beyond**

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02 49 39PM 1 **that. If I had, I would have done everything**

02 49 45PM 2 **within my power to stop it and get her out. And**

02 49 51PM 3 **that's what I wish happened.**

02 49 56PM 4 MS. DO: Thank you, Ms. Tucker.

02 49 58PM 5 Nothing further, Your Honor.

02 49 59PM 6 THE COURT: Thank you, Ms. Do.

02 50 03PM 7 Ladies and gentlemen, we'll take the

02 50 04PM 8 afternoon recess. Please be reassembled at

02 50 07PM 9 10 minutes after 3:00. Remember the admonition.

02 50 10PM 10 And thank you, Ms. Tucker.

02 50 13PM 11 You will resume -- the state -- when we

02 50 18PM 12 return.

03 10 24PM 13 (Recess.)

03 10 24PM 14 THE COURT: The record will show the

03 13 38PM 15 presence of the defendant, Mr. Ray, the attorneys,

03 13 37PM 16 and the jury. Ms. Tucker is on the witness stand.

03 13 41PM 17 And, Ms. Polk, you had redirect.

03 13 43PM 18 MS. POLK: Thank you, Your Honor.

03 14 34PM 19 THE COURT: Proceed.

03 14 34PM 20 REDIRECT EXAMINATION

03 14 34PM 21 BY MS. POLK:

03 14 38PM 22 Q. Miss Tucker, you were asked some

03 14 38PM 23 questions by Ms. Do about the hair shaving event.

03 14 48PM 24 And specifically Ms. Do stated to you that when you

03 14 52PM 25 didn't want to cut your hair that Mr. Ray said that

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03 14 57PM 1 was fine. Just think about it. And your response
 03 15 00PM 2 was, well, that may have been what he said?
 03 15 03PM 3 **A. Uh-huh.**
 03 15 06PM 4 **Q. Is there more to that?**
 03 15 15PM 5 **A. Well, yeah. There is more to that.**
 03 15 21PM 6 **There is -- with regards to the hair shaving or**
 03 15 40PM 7 **cutting, there was a fair amount of pressure. It**
 03 15 43PM 8 **wasn't something that I was -- you know -- buying**
 03 15 51PM 9 **into in terms of that's not what was going to**
 03 15 58PM 10 **motivate me to do it.**
 03 16 00PM 11 **Q. What did Mr. Ray say or do that you**
 03 16 03PM 12 **considered to be a fair amount of pressure?**
 03 16 13PM 13 **A. It was -- it was questions of that night**
 03 16 16PM 14 **of asking me why aren't you doing it? What's**
 03 16 27PM 15 **holding you back? It was something that I was --**
 03 16 32PM 16 **didn't think I was interested in doing, didn't**
 03 16 37PM 17 **initially see how it had any value for me. And so**
 03 16 40PM 18 **I was resisting.**
 03 16 43PM 19 **Q. Did Mr. Ray have a direct conversation**
 03 16 46PM 20 **with you that night about why you weren't cutting**
 03 16 47PM 21 **your hair?**
 03 16 51PM 22 **A. We had a brief exchange.**
 03 16 54PM 23 **Q. And where did that brief exchange occur?**
 03 17 01PM 24 **A. Up in the area that the other people were**
 03 17 01PM 25 **doing it. I eventually wandered up to see what was**
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03 17 07PM 1 **going on because most people were up there. I was**
 03 17 09PM 2 **staying away. It made me uncomfortable. I figured**
 03 17 18PM 3 **I was hiding, so I just went up there.**
 03 17 21PM 4 **Q. Did you seek Mr. Ray out?**
 03 17 22PM 5 **A. No. Not particularly.**
 03 17 24PM 6 **Q. Did he come to you?**
 03 17 25PM 7 **A. He spoke to most people that night.**
 03 17 26PM 8 **Q. Did he speak to you?**
 03 17 30PM 9 **A. Yes.**
 03 17 31PM 10 **Q. And what did he say?**
 03 17 32PM 11 **A. I'm not sure I remember specifically. It**
 03 17 43PM 12 **was along the lines of what's holding you back? He**
 03 17 49PM 13 **said it's such a small thing. But to me it was a**
 03 17 58PM 14 **big thing. And these are my own words. These**
 03 18 03PM 15 **aren't his. I'm just conveying the sense of it.**
 03 18 06PM 16 **Q. What did Mr. Ray say to you that makes**
 03 18 11PM 17 **you say it was a big thing?**
 03 18 13PM 18 **A. For me what was difficult about not doing**
 03 18 16PM 19 **it is that I didn't say no to many or any other**
 03 18 25PM 20 **challenges. So it was hard for me to say no. And**
 03 18 29PM 21 **yet I didn't -- at that time, I didn't want to do**
 03 18 38PM 22 **it, didn't see the point in doing it. So -- you**
 03 18 40PM 23 **know -- if I don't see the point in something, I'm**
 03 18 41PM 24 **not going to do it.**
 03 18 41PM 25 **Q. Eventually, over the week you did change**
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03 18 43PM 1 **your mind and you did do it?**
 03 18 45PM 2 **A. I did.**
 03 18 45PM 3 **Q. On that first night when Mr. Ray spoke to**
 03 18 48PM 4 **you about why you were not cutting your hair or**
 03 18 51PM 5 **shaving your head, did you observe how many others**
 03 18 54PM 6 **had shaved their head?**
 03 18 55PM 7 **A. There were quite a number.**
 03 18 57PM 8 **Q. Were you in a minority at that point as**
 03 18 59PM 9 **to not shaving your head?**
 03 19 00PM 10 **A. It seemed like it. I think sitting**
 03 19 04PM 11 **around the next day, there were probably still more**
 03 19 07PM 12 **people with hair than without. It certainly seemed**
 03 19 10PM 13 **like a lot of people were doing it.**
 03 19 12PM 14 **Q. Was attention drawn to the fact that you**
 03 19 15PM 15 **had not shaved your head on any other occasion?**
 03 19 19PM 16 **A. No. Not specifically.**
 03 19 25PM 17 **Q. How was it that you had the opportunity**
 03 19 28PM 18 **to cut your hair later in the week?**
 03 19 30PM 19 **A. Well, there was always the opportunity.**
 03 19 33PM 20 **Different people had -- would, I guess, choose**
 03 19 39PM 21 **their time and then go and do it on a break or have**
 03 19 42PM 22 **it done on a break. And when I finally arrived at**
 03 19 53PM 23 **the decision there was going to be some benefit to**
 03 19 56PM 24 **me to do it, then that's what I did.**
 03 20 00PM 25 **Q. How did you find somebody to cut your**
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03 20 02PM 1 **hair when you thought you were ready?**
 03 20 04PM 2 **A. When I thought I was ready, well, that**
 03 20 12PM 3 **day I was sitting beside Kirby. And she was to my**
 03 20 23PM 4 **right. We would scrawl a note back and forth. And**
 03 20 30PM 5 **she had, I think, the day before got hers done.**
 03 20 37PM 6 **And so when it became very obvious to me that it**
 03 20 49PM 7 **was something I needed to do, I scrawled a note to**
 03 20 52PM 8 **her. And I actually asked her who did hers. And**
 03 21 03PM 9 **that's how I knew who I wanted to do mine.**
 03 21 10PM 10 **Q. What day was it that you decided to shave**
 03 21 13PM 11 **your head?**
 03 21 14PM 12 **A. Tuesday morning.**
 03 21 16PM 13 **Q. What day had Kirby Brown shaved her head?**
 03 21 21PM 14 **A. I think Monday.**
 03 21 21PM 15 **Q. Who was it that you wanted to shave your**
 03 21 24PM 16 **head?**
 03 21 25PM 17 **A. It was Jennifer.**
 03 21 26PM 18 **Q. Do you know Jennifer's last name?**
 03 21 30PM 19 **A. I think it's Haley.**
 03 21 32PM 20 **Q. How did you find Jennifer to shave your**
 03 21 38PM 21 **head?**
 03 21 38PM 22 **A. I went to the back, and she was there.**
 03 21 38PM 23 **Q. At the head shaving station?**
 03 21 40PM 24 **A. Yes.**
 03 21 42PM 25 **Q. Was this something that you thought about**
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- 03 21 46PM 1 quite a bit before doing it?
- 03 21 48PM 2 **A. Yes.**
- 03 21 52PM 3 **Q. Ms. Do asked you whether you were**
- 03 22 01PM 4 **thinking about the head shaving while you were**
- 03 22 02PM 5 **inside the sweat lodge. Do you remember that?**
- 03 22 07PM 6 **A. Uh-huh.**
- 03 22 11PM 7 **Q. Would you tell the jury just generally**
- 03 22 15PM 8 **the various courses that you signed up for and took**
- 03 22 19PM 9 **from Mr. Ray. Was there a progression in terms of**
- 03 22 24PM 10 **learning?**
- 03 22 28PM 11 **A. I thought for me there was. Yes.**
- 03 22 31PM 12 **Q. And in those various seminars, was there**
- 03 22 33PM 13 **a relationship from one event to another in terms**
- 03 22 36PM 14 **of a progression and a learning process?**
- 03 22 38PM 15 **A. Well, I think anyone was free to choose**
- 03 22 41PM 16 **to go into whatever events in whatever order.**
- 03 22 44PM 17 **That's how my experience was.**
- 03 22 48PM 18 **Q. Well, in a particular seminar, such as**
- 03 22 51PM 19 **the Spiritual Warrior seminar, was there a**
- 03 22 55PM 20 **progression or relationship between the various**
- 03 23 02PM 21 **events offered within one seminar?**
- 03 23 04PM 22 **A. Yeah. I'm not sure I'm understanding**
- 03 23 07PM 23 **your question.**
- 03 23 08PM 24 **Q. You were there to learn at these events?**
- 03 23 09PM 25 **A. Yes.**

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- 03 23 07PM 1 **Q. And you were there to learn at the**
- 03 23 08PM 2 **Spiritual Warrior event?**
- 03 23 10PM 3 **A. Yes.**
- 03 23 11PM 4 **Q. And within that seminar was each event a**
- 03 23 16PM 5 **learning experience?**
- 03 23 17PM 6 **A. Yes.**
- 03 23 17PM 7 **Q. Did you perceive some relationship from**
- 03 23 20PM 8 **one learning experience to another within the**
- 03 23 23PM 9 **Spiritual Warrior seminar, or was it just random?**
- 03 23 32PM 10 **A. I can't say I have ever given it any**
- 03 23 36PM 11 **thought. It just seemed that we went from one**
- 03 23 48PM 12 **challenge or -- you know -- event to another. But**
- 03 23 58PM 13 **there was -- you know -- seminar time and a lot of**
- 03 24 01PM 14 **time for inner work in between and through the**
- 03 24 05PM 15 **evening.**
- 03 24 05PM 16 **Q. During this week of Spiritual Warrior,**
- 03 24 08PM 17 **was a successive event or challenge more**
- 03 24 14PM 18 **challenging than an earlier event?**
- 03 24 18PM 19 **A. I think that would depend on the**
- 03 24 20PM 20 **individual. And the reason that I say that is for**
- 03 24 25PM 21 **me the Vision Quest wasn't particularly**
- 03 24 33PM 22 **challenging. Say, for someone else who was**
- 03 24 38PM 23 **unfamiliar or not wanting to be outside for an**
- 03 24 40PM 24 **extended period, that would be challenging for**
- 03 24 40PM 25 **them.**

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- 03 24 40PM 1 **Q. What was the most challenging event of**
- 03 24 43PM 2 **the week?**
- 03 24 43PM 3 **A. Physically the most challenging event of**
- 03 24 47PM 4 **the week was the sweat lodge. And mentally the**
- 03 24 52PM 5 **most challenging event for me was the hair.**
- 03 25 01PM 6 **Q. Once you had decided to shave your head,**
- 03 25 04PM 7 **did that make the other events easier for you?**
- 03 25 08PM 8 **A. I don't know that it made them easier.**
- 03 25 16PM 9 **It may have. It certainly took some kind of a**
- 03 25 19PM 10 **burden off. I was -- in retrospect, it seems so**
- 03 25 31PM 11 **minute. But for me it was a big deal.**
- 03 25 34PM 12 **And then once I decided to do it and I**
- 03 25 37PM 13 **did it, that was it, and it was done. And I was**
- 03 25 40PM 14 **relatively speaking quite relieved and was ready to**
- 03 25 45PM 15 **go on with the next.**
- 03 25 48PM 16 **Q. You were prepared for what was coming**
- 03 25 48PM 17 **next?**
- 03 25 52PM 18 **A. Inasmuch as I could be prepared for**
- 03 25 54PM 19 **anything.**
- 03 25 57PM 20 **Q. Ms. Tucker, do you know what the Journey**
- 03 25 57PM 21 **of Power is?**
- 03 25 57PM 22 **A. Yes.**
- 03 25 58PM 23 **Q. How do you know that term?**
- 03 26 00PM 24 **A. It's -- I guess it would be the branding**
- 03 26 04PM 25 **for Mr. Ray's courses.**

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- 03 26 05PM 1 **Q. And what does that mean to you?**
- 03 26 07PM 2 **MS. DO: Objection, Your Honor. Beyond the**
- 03 26 08PM 3 **scope.**
- 03 26 09PM 4 **THE COURT: Sustained.**
- 03 26 17PM 5 **Q. BY MS. POLK: Is there a relationship**
- 03 26 19PM 6 **between the Journey of Power and the shaving of**
- 03 26 22PM 7 **hair for you?**
- 03 26 24PM 8 **MS. DO: Same objection, Your Honor.**
- 03 26 26PM 9 **THE COURT: Overruled.**
- 03 26 27PM 10 **You may answer that, if you can.**
- 03 26 32PM 11 **THE WITNESS: Can you rephrase it?**
- 03 26 34PM 12 **Q. BY MS. POLK: Does the Journey of**
- 03 26 40PM 13 **Power -- does the head shaving event have any -- is**
- 03 26 44PM 14 **that part of the Journey of Power?**
- 03 26 47PM 15 **A. Inasmuch as anything else was, yeah.**
- 03 26 49PM 16 **Q. And what does that answer mean?**
- 03 26 51PM 17 **A. I guess it -- yes. It would be a part of**
- 03 26 54PM 18 **it.**
- 03 26 54PM 19 **Q. Can you explain to the jury what you mean**
- 03 26 58PM 20 **that head shaving was part of the Journey of Power.**
- 03 27 00PM 21 **A. Well, I mean, it was a part of the -- you**
- 03 27 05PM 22 **know -- Spiritual Warrior event. And that event**
- 03 27 14PM 23 **was part of the Journey of Power. I'm not sure**
- 03 27 22PM 24 **what else.**
- 03 27 26PM 25 **Q. In response to one of the questions from**

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03 27 30PM 1 Ms. Do, you said that you did not buy into
 03 27 32PM 2 everything that Mr. Ray said or taught. What did
 03 27 36PM 3 you not buy into?
 03 27 38PM 4 **A. Some of the more -- for lack of a better**
 03 27 40PM 5 **word, some of the more mystical elements didn't --**
 03 27 56PM 6 **you know -- they just went by me.**
 03 28 01PM 7 **Q. For example?**
 03 28 02PM 8 **A. It's hard to explain. It's been a while.**
 03 28 27PM 9 **I enjoyed the intellectual stimulation of it. I**
 03 28 31PM 10 **enjoyed doing reading. I enjoyed learning about**
 03 28 33PM 11 **myself. Some of the things at different events**
 03 28 37PM 12 **took me outside my comfort zone. Lots of them did.**
 03 28 40PM 13 **But I would step up and do them. And it would seem**
 03 28 44PM 14 **that was just a part of, okay, this is my learning.**
 03 28 47PM 15 **I'm going to get something from this. And there**
 03 28 49PM 16 **were other things that I didn't get as much out of.**
 03 28 53PM 17 **I just let them pass.**
 03 28 55PM 18 **Q. Was there anything at the Spiritual**
 03 29 01PM 19 **Warrior 2009 seminar that you let pass or did not**
 03 29 03PM 20 **get into?**
 03 29 04PM 21 **A. No. I participated fully.**
 03 29 07PM 22 **Q. Was there -- you said some of the**
 03 29 14PM 23 **mystical things you didn't buy into. Was any of**
 03 29 16PM 24 **that present at the Spiritual Warrior 2009?**
 03 29 21PM 25 **A. No. Not really.**
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03 29 27PM 1 **Q. In response to a question from Ms. Do,**
 03 29 30PM 2 **you said that the purpose of the -- one of the**
 03 29 33PM 3 **purposes of the Dream Team members was to**
 03 29 36PM 4 **facilitate events and to help people with their**
 03 29 40PM 5 **breakthroughs?**
 03 29 41PM 6 **A. Uh-huh.**
 03 29 42PM 7 **Q. How did a Dream Team member help somebody**
 03 29 45PM 8 **with a breakthrough?**
 03 29 47PM 9 **A. Well, if there was -- say, on a break**
 03 29 55PM 10 **whenever we had things to work on, if we needed to**
 03 29 58PM 11 **talk to someone there was not always the**
 03 30 04PM 12 **opportunity for Mr. Ray to talk one on one with**
 03 30 07PM 13 **everybody. And the Dream Team would be available**
 03 30 10PM 14 **to go back and speak with what you were working on**
 03 30 16PM 15 **or through.**
 03 30 17PM 16 **Q. Did anybody ever explain to you what the**
 03 30 20PM 17 **qualifications of Dream Team members were to help**
 03 30 23PM 18 **people with breakthroughs?**
 03 30 28PM 19 **A. Not so much.**
 03 30 42PM 20 **Q. Okay. And then in a response to a**
 03 30 44PM 21 **question from Ms. Do, you agreed that you had the**
 03 30 58PM 22 **choice to leave the sweat lodge. Were you speaking**
 03 30 59PM 23 **for yourself?**
 03 30 59PM 24 **A. Yes.**
 03 31 00PM 25 **Q. And were you speaking for others?**
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03 31 00PM 1 **A. I can only speak for myself.**
 03 31 08PM 2 **Q. Do you remember the line of questioning**
 03 31 12PM 3 **from Ms. Do about the lady with high blood pressure**
 03 31 17PM 4 **and that coming up at the briefing before entering**
 03 31 20PM 5 **the sweat lodge?**
 03 31 20PM 6 **A. Yes, I do.**
 03 31 21PM 7 **Q. Do you know who that lady was that had**
 03 31 24PM 8 **that question?**
 03 31 24PM 9 **A. I had her name in my head earlier. I**
 03 31 28PM 10 **think it was Linnette.**
 03 31 31PM 11 **Q. And do you know if that lady went into**
 03 31 33PM 12 **the sweat lodge?**
 03 31 34PM 13 **A. She did.**
 03 31 36PM 14 **Q. And were you ever aware of what happened**
 03 31 38PM 15 **to her or where she was in the sweat lodge?**
 03 31 40PM 16 **A. I didn't know where she was, but I did**
 03 31 43PM 17 **see her afterwards.**
 03 31 44PM 18 **Q. During the ceremony itself, were you ever**
 03 31 48PM 19 **aware of her?**
 03 31 48PM 20 **A. No.**
 03 31 49PM 21 **Q. And then Ms. Do asked you and you agreed**
 03 31 55PM 22 **that Mr. Ray did not pull any punches when**
 03 31 58PM 23 **describing to you what would happen in the sweat**
 03 32 00PM 24 **lodge. Do you remember that?**
 03 32 00PM 25 **A. Yes.**
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03 32 01PM 1 **Q. I want to play for you a clip from**
 03 32 04PM 2 **Exhibit 734.**
 03 32 08PM 3 **This is clip 11, for the record.**
 03 32 16PM 4 **MS. DO: Your Honor, objection. Cumulative.**
 03 32 19PM 5 **THE COURT: I'm sorry?**
 03 32 22PM 6 **MS. DO: Objection. Cumulative.**
 03 32 24PM 7 **THE COURT: Overruled.**
 03 33 21PM 8 **(Audio recording played.)**
 03 34 52PM 9 **MS. DO: Your Honor, it was repeating. Thank**
 03 34 55PM 10 **you.**
 03 34 56PM 11 **THE COURT: Thank you.**
 03 34 57PM 12 **Q. BY MS. POLK: Do you recall that**
 03 34 58PM 13 **statement, those statements by Mr. Ray?**
 03 35 03PM 14 **A. Yes, I do.**
 03 35 04PM 15 **Q. And after that briefing by Mr. Ray, did**
 03 35 07PM 16 **you believe that you could die in his sweat lodge?**
 03 35 09PM 17 **A. No, I didn't.**
 03 35 11PM 18 **Q. Did Mr. Ray ever tell you that anyone**
 03 35 13PM 19 **could die in the sweat lodge?**
 03 35 15PM 20 **A. If he did, I would not have taken it**
 03 35 22PM 21 **literally.**
 03 35 25PM 22 **Q. At any time during the briefing, did**
 03 35 27PM 23 **Mr. Ray ever tell you that he would not stop the**
 03 35 31PM 24 **ceremony to check up on participants?**
 03 35 34PM 25 **A. I do not remember that.**
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03 35 38PM 1 Q. And if Mr. Ray had led you to believe
 03 35 42PM 2 that you could actually die, would you have gone
 03 35 45PM 3 in?
 03 35 48PM 4 A. No, I would not.
 03 35 51PM 5 Q. So did he perhaps pull some punches on
 03 35 54PM 6 you?
 03 35 56PM 7 MS. DO: Objection. Argumentative,
 03 35 58PM 8 Your Honor.
 03 35 59PM 9 THE COURT: Sustained.
 03 36 01PM 10 Q. BY MS. POLK: You were asked some
 03 36 03PM 11 questions, Ms. Tucker, about the waiver that you
 03 36 05PM 12 signed. Did you expect to be taken care of when
 03 36 07PM 13 you went inside the sweat lodge?
 03 36 09PM 14 A. I didn't expect to need to be taken care
 03 36 11PM 15 of.
 03 36 13PM 16 Q. Did you expect that you would be safe
 03 36 15PM 17 inside the sweat lodge?
 03 36 17PM 18 A. I did.
 03 36 19PM 19 Q. And specifically you were asked some
 03 36 21PM 20 questions about Liz and when you became concerned
 03 36 23PM 21 about Liz. You had never been in a sweat lodge
 03 36 25PM 22 before?
 03 36 27PM 23 A. I had not.
 03 36 29PM 24 Q. Did you know how to define "normal"
 03 36 31PM 25 inside a sweat lodge?

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03 36 57PM 1 A. I did not.
 03 36 58PM 2 Q. What were your expectations of Mr. Ray in
 03 37 02PM 3 terms of telling you whether people were okay or
 03 37 04PM 4 not?
 03 37 05PM 5 A. In my mind, I keep coming back to this.
 03 37 23PM 6 This is what is true for me: Despite all of the
 03 37 28PM 7 talk prior to the sweat lodge, my perception was
 03 37 37PM 8 that the stage was being set for a situation that
 03 37 40PM 9 would potentially provide us with a breakthrough
 03 37 45PM 10 experience.
 03 37 48PM 11 At no time when Mr. Ray was speaking
 03 37 51PM 12 about -- you know -- feeling like I was dying or
 03 37 56PM 13 anything like that did I take it literally. To me,
 03 38 02PM 14 it was setting the stage. When we went into the
 03 38 08PM 15 sweat lodge and had this experience, I could not
 03 38 12PM 16 have had any expectation that anyone would come to
 03 38 16PM 17 serious harm.
 03 38 18PM 18 My expectation would be just as I would
 03 38 22PM 19 have done for myself. If I was feeling unwell, I
 03 38 26PM 20 would have removed myself. And if I felt I
 03 38 30PM 21 couldn't, then I would have asked for help and I
 03 38 35PM 22 would have expected to receive it.
 03 38 38PM 23 Q. You told Ms. Do that you remained alert
 03 38 40PM 24 and lucid throughout this sweat lodge ceremony. Do
 03 38 46PM 25 you recall that testimony?

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03 38 47PM 1 A. Yes.
 03 38 47PM 2 Q. Did you know somebody named Dennis
 03 38 51PM 3 Mehravar?
 03 38 51PM 4 A. I don't know Dennis personally. I know
 03 38 54PM 5 who he is.
 03 38 55PM 6 Q. Were you ever aware of Dennis during the
 03 38 57PM 7 sweat lodge ceremony?
 03 38 58PM 8 A. No.
 03 38 59PM 9 Q. Did you know someone named Lou Caci?
 03 39 02PM 10 A. Yes.
 03 39 03PM 11 Q. Were you ever aware of Lou Caci during
 03 39 08PM 12 the ceremony?
 03 39 11PM 13 A. Yes.
 03 39 13PM 14 Q. When did you become aware of Lou?
 03 39 17PM 15 A. He may have -- this is one of the things
 03 39 25PM 16 I do remember. He had gone to go out, and I think
 03 39 29PM 17 he burned himself.
 03 39 31PM 18 Q. What do you remember about that?
 03 39 33PM 19 A. I do remember that he did reenter the
 03 39 48PM 20 lodge. I didn't see anything. It was more -- you
 03 39 51PM 21 know -- auditory. And I haven't seen Mr. Caci ever
 03 40 01PM 22 since then.
 03 40 02PM 23 Q. What did you hear that was auditory?
 03 40 08PM 24 A. I'm going to admit to -- I may have
 03 40 17PM 25 trouble recalling what I remembered and experienced

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03 40 20PM 1 versus what I heard about after.
 03 40 21PM 2 Q. I just want you to recall what you
 03 40 23PM 3 remember.
 03 40 24PM 4 A. I didn't get a lot of specifics. It
 03 40 33PM 5 was --
 03 40 33PM 6 Q. What does that mean, you did not get a
 03 40 34PM 7 lot of specifics?
 03 40 35PM 8 A. Well, I didn't see. I didn't -- you
 03 40 39PM 9 know -- I didn't witness anything with regards to
 03 40 41PM 10 him.
 03 40 43PM 11 Q. Well, what do you know from your own --
 03 40 45PM 12 what you observed?
 03 40 47PM 13 A. Just what I said.
 03 40 50PM 14 Q. And what was that?
 03 40 51PM 15 A. That I believe that he went to -- he
 03 41 00PM 16 moved and burned himself.
 03 41 06PM 17 Q. And how do you know that?
 03 41 08PM 18 A. Just what I heard.
 03 41 11PM 19 Q. Let me ask you this: What did you hear
 03 41 14PM 20 that makes you say that?
 03 41 17PM 21 A. He must have shouted something.
 03 41 19PM 22 Q. Are you having trouble today remembering
 03 41 22PM 23 that?
 03 41 22PM 24 A. Not any more so than I ever have. You
 03 41 29PM 25 know, again, most of my recall of the events had to

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03 41 34PM 1 **do with myself and what was going on immediately**
 03 41 37PM 2 **around me.**
 03 41 38PM 3 **Q.** In your little piece of the sweat lodge?
 03 41 40PM 4 **A. Yes.**
 03 41 41PM 5 **Q.** Were you aware -- less aware of what was
 03 41 47PM 6 going on in other parts of the sweat lodge?
 03 41 48PM 7 **A. Yes.**
 03 41 51PM 8 **Q.** Did you know someone named Sidney
 03 41 54PM 9 Spencer?
 03 41 54PM 10 **A. Yes.**
 03 41 54PM 11 **Q.** Were you ever aware of anything involving
 03 41 57PM 12 Sidney inside the sweat lodge?
 03 41 59PM 13 **A. No.**
 03 41 59PM 14 **Q.** Did you know someone named Tess Wong?
 03 42 02PM 15 **A. Yes.**
 03 42 02PM 16 **Q.** Were you ever aware of anything going on
 03 42 05PM 17 with Tess?
 03 42 07PM 18 **A. No.**
 03 42 07PM 19 **Q.** How about Linda Andresano? Were you ever
 03 42 12PM 20 aware of anything going on with Linda in the sweat
 03 42 15PM 21 lodge?
 03 42 15PM 22 **A. No.**
 03 42 15PM 23 **Q.** You already testified you weren't aware
 03 42 17PM 24 of anything with respect to Kirby Brown and James
 03 42 21PM 25 Shore in the sweat lodge?

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03 42 22PM 1 **A. That's correct. Everything that I'm**
 03 42 24PM 2 **aware of I've given to you in my statements.**
 03 42 26PM 3 **Q.** How did you become aware that James
 03 42 28PM 4 Shore -- not how did you become aware. Were you
 03 42 30PM 5 ever aware of James Shore being brought out of the
 03 42 33PM 6 sweat lodge?
 03 42 34PM 7 **A. No.**
 03 42 34PM 8 **Q.** Were you ever aware of Kirby Brown being
 03 42 38PM 9 brought out of the sweat lodge?
 03 42 39PM 10 **A. No.**
 03 42 40PM 11 **Q.** Were you ever aware of Sean Ronan and how
 03 42 44PM 12 he was brought out?
 03 42 44PM 13 **A. No.**
 03 42 45PM 14 **Q.** Were you ever aware of Sidney Spencer and
 03 42 47PM 15 how she was brought out of the sweat lodge?
 03 42 48PM 16 **A. No.**
 03 42 58PM 17 **Q.** When is the last time, Ms. Tucker, that
 03 42 59PM 18 you believed that Liz Neuman tapped on you inside
 03 43 03PM 19 the sweat lodge?
 03 43 09PM 20 **A. The fifth or sixth round.**
 03 43 17PM 21 **Q.** Were you aware of Liz Neuman and any
 03 43 25PM 22 activity after the fifth or sixth round?
 03 43 25PM 23 **A. Well, yes. I was.**
 03 43 27PM 24 **Q.** And what was that?
 03 43 28PM 25 **A. She was continuing to be leaning back on**

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03 43 31PM 1 **my legs and she was breathing freely.**
 03 43 37PM 2 **Q.** How do you know she was breathing? What
 03 43 40PM 3 did you observe that led you to believe Liz was
 03 43 44PM 4 breathing?
 03 43 45PM 5 **A. Well, she was literally right on my legs.**
 03 43 48PM 6 **So I was touching her the entire time with my legs.**
 03 43 52PM 7 **I could tell and I could hear that she was**
 03 43 57PM 8 **breathing.**
 03 43 58PM 9 **Q.** And this signal that you had worked out
 03 44 03PM 10 with Liz ahead of time to tap on each other to let
 03 44 08PM 11 each other know you were okay, the last time Liz
 03 44 10PM 12 tapped you was the fifth or sixth round?
 03 44 14PM 13 **A. It was -- once she had moved to a seated**
 03 44 19PM 14 **position, things changed there. We were not doing**
 03 44 26PM 15 **that as we were before.**
 03 44 30PM 16 **Q.** The last time you received a signal from
 03 44 34PM 17 Liz Neuman that she was okay was when?
 03 44 36PM 18 **A. When I asked her.**
 03 44 38PM 19 **Q.** And that was what round?
 03 44 43PM 20 **A. That was between the seventh and the**
 03 44 48PM 21 **eighth.**
 03 44 47PM 22 **Q.** When you told Ms. Do that you were alert
 03 44 54PM 23 and lucid, did that apply just to your little piece
 03 45 02PM 24 in the corner of the sweat lodge?
 03 45 03PM 25 **A. Yes.**

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03 45 05PM 1 **Q.** It's not your testimony that you were
 03 45 08PM 2 alert and lucid about what else was going on in the
 03 45 11PM 3 sweat lodge?
 03 45 11PM 4 **A. I was not keeping track of everything**
 03 45 17PM 5 **that was going on in every part of the sweat lodge.**
 03 45 23PM 6 **Q.** This has been a difficult memory for you,
 03 45 26PM 7 Ms. Tucker?
 03 45 28PM 8 **A. Absolutely. It's been a difficult day.**
 03 45 29PM 9 **Q.** Yes. We apologize for that. Is this an
 03 45 34PM 10 incident involving Liz Neuman that you do not like
 03 45 37PM 11 to think about?
 03 45 40PM 12 **A. I would say that's a fair statement.**
 03 45 44PM 13 **There is a lot of grief wrapped up in there.**
 03 45 46PM 14 **Q.** Are you still dealing with the issue of
 03 45 50PM 15 Liz Neuman's death?
 03 45 52PM 16 **A. Sure. Yes, I am.**
 03 45 55PM 17 **Q.** Is it an event that you would like to
 03 46 02PM 18 forget?
 03 46 03PM 19 **A. It's an event that I would prefer never**
 03 46 07PM 20 **happened. It's not something that I hide from. I**
 03 46 19PM 21 **mean, it's not something that I avoid when I need**
 03 46 22PM 22 **to think about it. And it's going to be, I**
 03 46 27PM 23 **believe, a lifetime of wrapping my head around it.**
 03 46 30PM 24 **And that's pretty much been my experience with**
 03 46 35PM 25 **grief, period.**

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03 46 41PM 1 Q. Is it something that you continue to
03 46 43PM 2 struggle with?
03 46 44PM 3 MS. DO: Objection, Your Honor. Relevance.
03 46 45PM 4 THE COURT: Sustained.
03 46 46PM 5 MS. POLK: Thank you, Ms. Tucker.
03 46 47PM 6 Thank you, Judge.
03 46 48PM 7 THE COURT: Thank you, Ms. Polk.
03 46 49PM 8 Ladies and gentlemen, any questions for
03 47 00PM 9 this witness?
03 47 01PM 10 Counsel, may Ms. Tucker be excused as a
03 47 02PM 11 witness at this time.
03 47 03PM 12 MS. POLK: Yes, Your Honor.
03 47 04PM 13 THE COURT: Ms. Do?
03 47 05PM 14 MS. DO: Yes, Your Honor. Thank you.
03 47 06PM 15 THE COURT: Excuse me, Miss Tucker. I know I
03 47 07PM 16 went over the rule. I'm asking you to be aware
03 47 08PM 17 that because of the manner of communicating today,
03 47 09PM 18 there is other ways people learn things other than
03 47 10PM 19 by the telephone and discussing things. This was
03 47 11PM 20 the case not all that long ago.
03 47 12PM 21 I don't know your circle of friends or
03 47 13PM 22 anything like that. But I'm really directing as
03 47 14PM 23 part of this rule of exclusion of witnesses that
03 47 15PM 24 there not be a discussion that could somehow read
03 47 16PM 25 out to people who might be witnesses if that's
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03 47 52PM 1 something that would be available.
03 47 53PM 2 Again, I don't know your circle of
03 47 54PM 3 friends or who you might be communicating with, but
03 47 55PM 4 it's very important that other witnesses not know
03 48 00PM 5 of your testimony. You have been ordered to that
03 48 01PM 6 effect that you know of. I just ask that you
03 48 02PM 7 follow that rule.
03 48 03PM 8 THE WITNESS: It is my intention to follow
03 48 04PM 9 that rule. You have no concerns with me.
03 48 05PM 10 THE COURT: Okay. Thank you. Thank you very
03 48 06PM 11 much.
03 48 07PM 12 THE WITNESS: May I ask a question --
03 48 08PM 13 THE COURT: Yes.
03 48 09PM 14 THE WITNESS: With regards to -- can you just
03 48 10PM 15 go over again what the exclusion means when I
03 48 11PM 16 return to my community, when people that I know
03 48 12PM 17 have now seen this testimony, and when they want to
03 48 13PM 18 talk about it. I mean, I don't want to talk about
03 48 14PM 19 it. I haven't talked about it in almost a year and
03 48 15PM 20 a half. It's out there now. What are the rules?
03 48 16PM 21 THE COURT: The rule is that you not attempt
03 48 17PM 22 to communicate in any way with somebody who would
03 48 18PM 23 be a witness. That you not do that. That's the
03 48 19PM 24 main thing. You can talk to whom you want, of
03 48 20PM 25 course.

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03 48 59PM 1 If you prefer not to talk about this
03 49 02PM 2 subject -- I usually tell people in cases, it's a
03 49 05PM 3 good idea not to talk to anybody about the case
03 49 08PM 4 until it's over. Quite often cases are much
03 49 11PM 5 shorter than this one is anticipated to be. And I
03 49 14PM 6 have to be realistic.
03 49 18PM 7 One thing about the rule of exclusion.
03 49 19PM 8 You have been excused. And that means actually
03 49 22PM 9 people can actually be in the courtroom at this
03 49 25PM 10 point who have been witnesses. They can observe
03 49 27PM 11 things, and they can do things.
03 49 29PM 12 The important thing is not to communicate
03 49 32PM 13 in any fashion. And you've already indicated that
03 49 35PM 14 would not be your intent and you would avoid that,
03 49 38PM 15 communicate testimony to future witnesses. That's
03 49 41PM 16 really the concern of the rule. And the lawyers --
03 49 45PM 17 you can talk to them, and they can elaborate
03 49 48PM 18 further.
03 49 49PM 19 Is that enough --
03 49 50PM 20 THE WITNESS: That is enough.
03 49 51PM 21 THE COURT: -- to give you the guidelines
03 49 52PM 22 right now?
03 49 53PM 23 THE WITNESS: Yes.
03 49 54PM 24 THE COURT: Thank you. You are excused.
03 49 55PM 25 THE WITNESS: Thank you.
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03 50 20PM 1 THE COURT: Ms. Polk?
03 50 21PM 2 MS. POLK: Your Honor, the state recalls
03 50 22PM 3 Jennifer Haley to the stand.
03 50 23PM 4 JENNIFER HALEY,
03 50 24PM 5 having been previously duly sworn upon her oath to
03 50 25PM 6 tell the truth, the whole truth, and nothing but
03 50 26PM 7 the truth, testified as follows:
03 50 27PM 8 THE COURT: Miss Haley, please take the
03 50 28PM 9 witness stand again.
03 51 02PM 10 Of course, Miss Haley, you're still under
03 51 05PM 11 oath. You understand that?
03 51 08PM 12 THE WITNESS: Yes.
03 51 09PM 13 THE COURT: I'm just going to provide a
03 51 10PM 14 reminder that it's very important that the question
03 51 11PM 15 be asked and then the question finish before there
03 51 12PM 16 be an answer just so that the court reporter can
03 51 13PM 17 get everything on the record. If I remind people
03 51 14PM 18 of that, it won't be the first time.
03 51 15PM 19 DIRECT EXAMINATION (Continued)
03 51 16PM 20 BY MS. POLK:
03 51 17PM 21 Q. Good afternoon, Miss Haley.
03 51 18PM 22 A. Hi.
03 51 19PM 23 Q. I apologize for having to interrupt your
03 51 20PM 24 testimony this morning. I appreciate your patience
03 51 21PM 25 with that.

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03 51 38PM 1 I believe where we left off yesterday --

03 51 41PM 2 **A. Would it be okay if I cleared up a couple**

03 51 44PM 3 **things from yesterday.**

03 51 47PM 4 **Q.** Well, the way this works is you have to

03 51 50PM 5 answer questions. But when I ask you a question,

03 51 51PM 6 if it raises an issue, then you can certainly

03 51 55PM 7 respond appropriately.

03 51 58PM 8 **A. Okay. Well, they were questions you**

03 51 58PM 9 **asked already that I wasn't -- I haven't read**

03 52 04PM 10 **anything or prepared or talked to anybody really**

03 52 08PM 11 **from the whole thing. And I've really tried to**

03 52 11PM 12 **forget about this thing for the past year.**

03 52 13PM 13 **And I realized when I walked up here, I**

03 52 16PM 14 **really hadn't thought about it. I didn't even**

03 52 18PM 15 **remember what year I started. I had to, like, sit**

03 52 22PM 16 **down and write down what it was I had done because**

03 52 26PM 17 **of that.**

03 52 27PM 18 **Q.** Let me just interrupt you because this

03 52 29PM 19 process requires that the witness respond to

03 52 32PM 20 questions from the attorney.

03 52 33PM 21 THE COURT: Could I see the attorneys at the

03 52 36PM 22 bench for a minute.

03 52 51PM 23 (Sidebar conference.)

03 52 51PM 24 THE COURT: There are a couple of concerns.

03 52 57PM 25 It appears something she's thought -- she thinks

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03 53 02PM 1 she's given inaccurate testimony. I don't want to

03 53 04PM 2 have just improper things come out. At the same

03 53 08PM 3 time, she's going to be thinking about what

03 53 12PM 4 happened.

03 53 12PM 5 And -- you know -- people can talk to

03 53 16PM 6 witnesses -- you know -- Ms. Polk. And maybe

03 53 19PM 7 that's just what we need to do.

03 53 21PM 8 We're going to have somebody preoccupied.

03 53 23PM 9 At the same time, just to throw out a general

03 53 26PM 10 question -- you know -- what do you think was

03 53 29PM 11 inaccurate, I'm concerned about that too. That

03 53 31PM 12 would be my suggestion.

03 53 32PM 13 I certainly want to hear from the

03 53 34PM 14 attorneys.

03 53 35PM 15 MS. POLK: I can lead her through what she

03 53 37PM 16 thinks was inaccurate. Is that what you're --

03 53 39PM 17 THE COURT: That's one way to do it. To see

03 53 41PM 18 if we can get back -- or take a recess, talk to

03 53 44PM 19 her, see what we might need to be working on.

03 53 48PM 20 Ms. Do?

03 53 49PM 21 MS. DO: We'd be more comfortable with the

03 53 54PM 22 recess and Ms. Polk talk to the witness. I don't

03 53 56PM 23 want her blurting out something improper.

03 53 56PM 24 THE COURT: Could you do that, Ms. Polk?

03 53 58PM 25 MS. POLK: I can.

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03 53 58PM 1 THE COURT: Thank you.

03 53 59PM 2 (End of sidebar conference.)

03 53 59PM 3 THE COURT: You can stand if you want. We're

03 54 10PM 4 going to take a short recess. Remember the

03 54 12PM 5 admonition. We'll take a recess for a few minutes.

03 54 14PM 6 Thank you.

04 06 50PM 7 (Recess.)

04 06 50PM 8 THE COURT: The record will show the presence

04 06 52PM 9 of the defendant, Mr. Ray, the attorneys, the jury.

04 06 54PM 10 Miss Haley is on the witness stand. And she's

04 06 57PM 11 previously been sworn.

04 06 58PM 12 Ms. Polk.

04 06 58PM 13 MS. POLK: Thank you.

04 06 59PM 14 **Q.** Miss Haley, yesterday when you testified

04 07 01PM 15 in the afternoon, I asked you about what seminars

04 07 04PM 16 you had been to and when.

04 07 06PM 17 **A. Yes.**

04 07 08PM 18 **Q.** And overnight you've had some time to

04 07 09PM 19 think about what your answer was?

04 07 10PM 20 **A. Right.**

04 07 15PM 21 **Q.** And you feel you need to clarify what you

04 07 17PM 22 said yesterday about?

04 07 18PM 23 **A. When I started, how many I went to.**

04 07 20PM 24 **Q.** Yes. Go ahead and do that.

04 07 22PM 25 **A. I believe my first one was 2005. And**

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04 07 28PM 1 **I've done approximately 13 seminars. And two of**

04 07 35PM 2 **them I dream teamed. I did 7 the first year, so I**

04 07 40PM 3 **did them all to get them going. And the ones --**

04 07 44PM 4 **the others I did the next three years.**

04 07 48PM 5 **Q.** When was it that you first met a woman

04 07 53PM 6 named Liz Neuman?

04 07 54PM 7 **A. My second seminar in Hawaii.**

04 08 02PM 8 **Q.** What year was that?

04 08 03PM 9 **A. 2005, I believe.**

04 08 06PM 10 **Q.** And I'm going to put up on the overhead

04 08 09PM 11 Exhibit 407. Do you recognize that person?

04 08 15PM 12 **A. Yes.**

04 08 16PM 13 **Q.** How many events from 2007 and -- to 2009

04 08 22PM 14 did you see Liz Neuman at?

04 08 24PM 15 **A. From 2007 to 2009?**

04 08 27PM 16 **Q.** Well, let me clarify. From when you

04 08 30PM 17 first met her at an event.

04 08 32PM 18 **A. 2005.**

04 08 33PM 19 **Q.** 2005 to 2009?

04 08 35PM 20 **A. A lot. I couldn't tell you how many. A**

04 08 38PM 21 **lot. It seemed like I saw her at all of them. But**

04 08 42PM 22 **then just saying that, I didn't see her at the**

04 08 44PM 23 **first one. She may have been there. But she was**

04 08 46PM 24 **there a lot.**

04 08 47PM 25 **Q.** You testified yesterday that you had

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04 08 49PM 1 dream teamed at an event prior to the Spiritual
 04 08 53PM 2 Warrior 2009?
 04 08 53PM 3 A. Yes.
 04 09 01PM 4 Q. Was Liz Neuman also a Dream Team member
 04 09 02PM 5 at that event, if you remember?
 04 09 02PM 6 A. I don't remember.
 04 09 05PM 7 MS. DO: Your Honor, we request that we be
 04 09 10PM 8 able to approach
 04 09 13PM 9 THE COURT: Is there an objection, Counsel?
 04 09 14PM 10 MS DO: There is, Your Honor.
 04 09 15PM 11 THE COURT: And the objection is?
 04 09 15PM 12 MS. DO: We'd like to state it at sidebar if
 04 09 16PM 13 it's possible.
 04 09 20PM 14 THE COURT: Okay.
 04 09 20PM 15 (Sidebar conference.)
 04 09 38PM 16 MS DO. We're not trying to waste the Court's
 04 09 41PM 17 time. This has now happened, I believe, the fourth
 04 09 43PM 18 time. The state puts up the photographs of the
 04 09 47PM 19 decedents and leaves up it up there. The question
 04 09 49PM 20 has nothing to do with the exhibit. It's obvious
 04 09 51PM 21 why it's being done during the last witness. I
 04 09 55PM 22 noted one exhibit was left up for a good
 04 09 58PM 23 15 minutes.
 04 09 58PM 24 THE COURT: Okay
 04 09 59PM 25 Ms. Polk, you know -- go ahead.
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04 10 02PM 1 MS. POLK: Your Honor, I put the photograph
 04 10 04PM 2 up She identified who she is, and I have a
 04 10 06PM 3 question about it. I have not left it up for
 04 10 11PM 4 15 minutes.
 04 10 11PM 5 THE COURT: We started at 4:05. As long as
 04 10 13PM 6 there is a question bearing on that and the
 04 10 16PM 7 exhibit, that's when it should be up. When there
 04 10 18PM 8 is not a question pending, it should not be.
 04 10 21PM 9 MS. DO: Thank you, Your Honor.
 04 10 22PM 10 THE COURT: Thank you.
 04 10 33PM 11 (End of sidebar conference.)
 04 10 33PM 12 MS POLK: Your Honor, I apologize. I have
 04 10 36PM 13 forgotten what the last question was.
 04 10 37PM 14 THE COURT: I'm going to ask Miss Hunt to help
 04 10 40PM 15 with that, please.
 04 11 16PM 16 (Record read.)
 04 11 16PM 17 THE WITNESS: I don't remember. There was a
 04 11 18PM 18 thousand people and about 20 Dream Team members at
 04 11 21PM 19 that particular event.
 04 11 23PM 20 Q. BY MS. POLK: What is the first event
 04 11 24PM 21 that you recall dream teaming with Liz Neuman?
 04 11 31PM 22 A. Sedona, the last one. Because I've only
 04 11 32PM 23 dream teamed twice.
 04 11 32PM 24 Q. Did you know prior to Spiritual
 04 11 35PM 25 Warrior 2009 that Liz Neuman was going to be there?
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04 11 37PM 1 A. Yes.
 04 11 38PM 2 Q. How did you know that?
 04 11 39PM 3 A. We were given the names of the other
 04 11 44PM 4 Dream Team members because I had heard that she had
 04 11 47PM 5 done all of them that I knew.
 04 11 48PM 6 Q. When you arrived in Sedona on October 1st
 04 11 54PM 7 of 2009, did you encounter Liz Neuman?
 04 11 57PM 8 MS. DO: Your Honor, same objection. I ask
 04 12 00PM 9 the Court to remind the state of the Court's
 04 12 04PM 10 ruling.
 04 12 05PM 11 THE COURT: Ms. Polk, go ahead with this
 04 12 07PM 12 question, please.
 04 12 09PM 13 Q. BY MS. POLK: When you arrived in Sedona,
 04 12 12PM 14 Arizona, in October of 2009, did you encounter Liz
 04 12 15PM 15 Neuman?
 04 12 15PM 16 A. Yes. I do believe she was there the
 04 12 17PM 17 first day.
 04 12 18PM 18 Q. Did she Dream Team that same event that
 04 12 21PM 19 you dream teamed?
 04 12 22PM 20 A. Yes.
 04 12 27PM 21 Q. Yesterday when we broke, you were
 04 12 28PM 22 starting to tell us about going out to dinner with
 04 12 32PM 23 the other dream team members; correct?
 04 12 34PM 24 A. Right.
 04 12 35PM 25 Q. Was that before participants arrived?
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04 12 38PM 1 A. Yes.
 04 12 40PM 2 Q. What other activities did you and the
 04 12 42PM 3 other Dream Team members do before participants for
 04 12 48PM 4 the seminar itself began to arrive?
 04 12 50PM 5 A. I believe we had two dinners and we had
 04 12 58PM 6 some meetings.
 04 13 00PM 7 Q. Was there any training?
 04 13 03PM 8 A. The meetings were some training to tell
 04 13 07PM 9 us how to do the registration. But we had meetings
 04 13 11PM 10 every day that were for the day. So we didn't get
 04 13 16PM 11 trained, so to speak, for the event, like, when we
 04 13 19PM 12 got there, oh. This is everything. Maybe an
 04 13 23PM 13 outline, some paperwork we got, some folders, some
 04 13 29PM 14 schedules. We were told what to do day by day.
 04 13 34PM 15 And the first two days were us getting situated and
 04 13 37PM 16 getting paperwork and them asking why we were
 04 13 40PM 17 there, what was our intention.
 04 13 43PM 18 Q. You were asked why you were there?
 04 13 46PM 19 A. All the Dream Team members were asked two
 04 13 49PM 20 different times, once without James. And we were
 04 13 52PM 21 at dinner with Josh and Megan Fredrickson. And she
 04 13 58PM 22 asked us to go around and say why we were there.
 04 14 02PM 23 And then James the next day had us in a
 04 14 08PM 24 room closed -- seven Dream Team members -- Josh,
 04 14 10PM 25 Megan, and him there, but just with the Dream Team
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04 14 16PM 1 members that we all took turns and let him know why
 04 14 16PM 2 we were there and what our intentions were.
 04 14 24PM 3 Q. Miss Haley, why were you there?
 04 14 31PM 4 A. I was there because I had a dream, and I
 04 14 38PM 5 had been taught dream analysis. And Sedona had
 04 14 41PM 6 come up and it looked like I was supposed to go,
 04 14 44PM 7 and they happened to write me a letter asking me to
 04 14 46PM 8 apply.
 04 14 48PM 9 And although I didn't want to go and I
 04 14 47PM 10 didn't believe in that seminar, I felt divinely
 04 14 51PM 11 guided to be there. So I wrote my essay and I
 04 14 57PM 12 went.
 04 14 57PM 13 Q. Had you been to the Spiritual Warrior
 04 15 00PM 14 seminar as a participant before?
 04 15 02PM 15 A. Yes.
 04 15 03PM 16 Q. And in what year?
 04 15 04PM 17 A. 2007.
 04 15 06PM 18 Q. '07?
 04 15 06PM 19 A. Uh-huh.
 04 15 06PM 20 Q. And we'll talk about that later. I want
 04 15 06PM 21 to go back to the topic of training. Was there
 04 15 12PM 22 ever any formal training for Dream Team members
 04 15 19PM 23 before the event began?
 04 15 16PM 24 A. Every night. Every morning.
 04 15 19PM 25 Q. Were you ever given any written
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04 15 21PM 1 materials?
 04 15 21PM 2 A. Yes.
 04 15 34PM 3 MS. DO: Your Honor, the defense stipulates to
 04 15 37PM 4 Exhibit 189.
 04 15 40PM 5 THE COURT: Exhibit 189 is admitted.
 04 15 46PM 6 (Exhibit 189 admitted.)
 04 15 46PM 7 Q. BY MS. POLK: I'm going to approach and
 04 15 47PM 8 show you this exhibit so you can look at it first.
 04 15 52PM 9 If you would take a moment and look through that.
 04 15 54PM 10 A. I don't have my glasses. I can't read
 04 15 59PM 11 that. It looks familiar.
 04 16 00PM 12 Q. Did you bring your glasses with you to
 04 16 02PM 13 the courthouse?
 04 16 03PM 14 A. Uh --
 04 16 07PM 15 Q. Are they in your car? Do you need
 04 16 08PM 16 reading glass?
 04 16 09PM 17 A. To read the small print. But the large
 04 16 12PM 18 print I can read pretty good. It looks familiar to
 04 16 15PM 19 me. Yes. I could probably use anybody's. It
 04 16 20PM 20 would probably be okay.
 04 16 38PM 21 Q. Do you recognize this document?
 04 16 44PM 22 A. It looks familiar. I don't recollect it.
 04 16 48PM 23 We had a lot of paperwork, so there is just a lot
 04 16 48PM 24 to remember. But it -- no. I don't remember all
 04 17 00PM 25 of it.

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04 17 01PM 1 Q. Okay. Did you have materials that were
 04 17 03PM 2 specifically training materials? I'll take the
 04 17 10PM 3 glasses back.
 04 17 11PM 4 A. Okay. All this stuff that we were given
 04 17 13PM 5 were for training and for what we were supposed to
 04 17 16PM 6 do. So, yeah. We had written daily material.
 04 17 27PM 7 Q. Now I'm going to put up on the overhead
 04 17 29PM 8 the first page of this training material. We'll
 04 17 35PM 9 see if you can read it off of the overhead. And if
 04 17 39PM 10 not, I'll read it to you.
 04 17 39PM 11 A. I did get some reading out of it. It
 04 17 42PM 12 looks familiar.
 04 17 53PM 13 Q. I'm going to just point out to you where
 04 17 57PM 14 I'm reading from. And, first of all, it's titled
 04 17 59PM 15 "Creating Environments for Growth and Learning."
 04 18 02PM 16 And then there is a paragraph that says never touch
 04 18 06PM 17 or distract a participant, for example, hand out a
 04 18 09PM 18 tissue, when James is working with him or her.
 04 18 14PM 19 Do you recall that as being part of your
 04 18 16PM 20 training?
 04 18 18PM 21 A. I don't remember.
 04 18 18PM 22 Q. Did you ever hear the term "let them have
 04 18 21PM 23 their own experience"?
 04 18 22PM 24 A. Yes.
 04 18 23PM 25 Q. Where did you hear that?
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04 18 24PM 1 A. I heard that in Sedona a couple times to
 04 18 28PM 2 me.
 04 18 28PM 3 Q. From Mr. Ray?
 04 18 29PM 4 A. No. From Marta Reis.
 04 18 32PM 5 Q. Had you heard that term before Spiritual
 04 18 36PM 6 Warrior 2009?
 04 18 41PM 7 A. No.
 04 18 42PM 8 Q. Do you know what -- what did that term
 04 18 46PM 9 mean to you?
 04 18 47PM 10 A. Stay out of it.
 04 18 49PM 11 Q. Stay out of what?
 04 18 50PM 12 A. Stay out of what I was trying to do,
 04 18 53PM 13 which was I didn't want one person to go back in.
 04 18 57PM 14 Q. Are you talking about the sweat lodge?
 04 18 58PM 15 A. Yeah.
 04 19 00PM 16 Q. Okay. We'll get to that later. But just
 04 19 02PM 17 generally --
 04 19 02PM 18 A. But that's when I heard it.
 04 19 04PM 19 Q. Is that the only time you heard it?
 04 19 06PM 20 A. The only time I heard it was two times
 04 19 08PM 21 during the sweat lodge.
 04 19 10PM 22 Q. And then I'm going to point to where I'm
 04 19 13PM 23 reading now. It says, follow the syntax. The
 04 19 17PM 24 syntax is a detailed schedule of the event.
 04 19 22PM 25 A. Yes. I can read that.

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04 19 24PM 1 Q. Was there a syntax handed out to you?

04 19 27PM 2 A. Yes.

04 19 27PM 3 Q. What is a syntax?

04 19 30PM 4 A. It tells you what's going to go on at

04 19 33PM 5 what time during the day, everything that's going

04 19 33PM 6 to go on.

04 19 38PM 7 Q. I'm going to hand you what's marked as

04 19 41PM 8 Exhibit 253. Are we going to need glasses again?

04 19 47PM 9 A. Or it can go up there. I can read

04 19 50PM 10 everything on there.

04 19 52PM 11 MS. POLK: Your Honor, Counsel has agreed to

04 19 54PM 12 the admission of Exhibit 253, and I move for its

04 19 58PM 13 admission.

04 19 58PM 14 THE COURT: 253 is admitted.

04 20 02PM 15 (Exhibit 253 admitted.)

04 20 08PM 16 Q. BY MS. POLK: Can you see it?

04 20 08PM 17 A. When you went a little closer, I can read

04 20 12PM 18 everything.

04 20 12PM 19 Q. I just want to know if this is a syntax.

04 20 15PM 20 A. Yes. That looks --

04 20 20PM 21 Q. Miss Haley, when did you get the syntax?

04 20 27PM 22 A. I believe that we had a daily thing. It

04 20 40PM 23 seems to me that Megan and Josh really had the

04 20 44PM 24 syntax. That's why -- I mean, we probably had our

04 20 50PM 25 own. I wouldn't say this is syntax because the

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04 20 54PM 1 other is a lot more detailed on the time and

04 20 58PM 2 everything like that. Like, that's pretty busy.

04 21 00PM 3 Ours wasn't that busy.

04 21 03PM 4 Q. Do you think you got it in daily --

04 21 05PM 5 A. I think -- yeah. They had a more

04 21 11PM 6 detailed, messier looking thing.

04 21 16PM 7 Q. When would you get the syntax every day?

04 21 19PM 8 A. We would always talk before we talked to

04 21 21PM 9 any participants every morning, and we would all

04 21 26PM 10 talk after they would leave.

04 21 27PM 11 Q. Okay. Who led those talks?

04 21 28PM 12 A. Josh and Megan Fredrickson.

04 21 32PM 13 Q. Did Mr. Ray ever directly do any training

04 21 35PM 14 with you?

04 21 35PM 15 A. Yes.

04 21 35PM 16 Q. When was that?

04 21 36PM 17 A. Before the sweat lodge. He did some, and

04 21 40PM 18 he did some when we got there by asking why we were

04 21 45PM 19 there and sitting at attention and thanking us for

04 21 55PM 20 being there.

04 21 58PM 21 Q. Was any training ever provided to you to

04 22 01PM 22 respond to a participant who was having a

04 22 13PM 23 breakthrough?

04 22 13PM 24 A. Yeah. We had some small training on

04 22 19PM 25 people who were to do recalculations (sic

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04 22 22PM 1 throughout, which is to write out their life as it

04 22 25PM 2 was happening. And when they got stumped and going

04 22 28PM 3 through things, we were supposed to help them

04 22 31PM 4 through their writing, and they were supposed to do

04 22 34PM 5 their writing throughout the five days. I mean, it

04 22 36PM 6 was an ongoing thing, two days heavy. They got to

04 22 40PM 7 bring writing even to Vision Quest.

04 22 43PM 8 Q. Who provided that training to you?

04 22 45PM 9 A. James did some of it, and Megan and Josh

04 22 58PM 10 did some of it. And James also said if there were

04 23 00PM 11 questions and we needed somebody, to go to Lisa or

04 23 05PM 12 to Megan, then to him.

04 23 09PM 13 Q. Let's talk about that a little bit.

04 23 11PM 14 First of all, you said James did. You mean who?

04 23 15PM 15 James who?

04 23 15PM 16 A. James Ray.

04 23 18PM 17 Q. Was there a hierarchy, then, in terms of

04 23 20PM 18 who you would go to?

04 23 21PM 19 A. A little bit. Yeah.

04 23 24PM 20 Q. Explain to the jury who was running the

04 23 26PM 21 event overall.

04 23 27PM 22 A. I would say Megan Fredrickson and Melinda

04 23 32PM 23 was James's right hand. But Megan and Josh were

04 23 40PM 24 the coordinators, and they were the ones heading

04 23 43PM 25 everything.

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04 23 44PM 1 Q. Above Mr. Ray?

04 23 45PM 2 A. Oh, we certainly saw a lot more of them

04 23 48PM 3 than him.

04 23 51PM 4 Q. Did you understand whose event it was?

04 23 53PM 5 A. Yes.

04 23 53PM 6 Q. And whose event was it?

04 23 55PM 7 A. It was James Ray's.

04 23 57PM 8 Q. And then under Mr. Ray was the

04 24 00PM 9 Fredricksons?

04 24 00PM 10 A. Megan and Josh.

04 24 02PM 11 Q. Fredrickson. And then who else?

04 24 05PM 12 A. Well, you brought up Lisa before as if

04 24 07PM 13 there were questions, like, at night. Because we

04 24 08PM 14 were up from, like, midnight to 6:00 in the morning

04 24 13PM 15 with the participants. And we could always ask

04 24 17PM 16 Lisa or Liz.

04 24 18PM 17 Q. Lisa who?

04 24 19PM 18 A. I don't know Lisa's last name. She's a

04 24 22PM 19 life coach for JRI. She was my roommate, but I

04 24 26PM 20 don't know her last name.

04 24 27PM 21 Q. What is JRI?

04 24 28PM 22 A. James Ray International.

04 24 30PM 23 Q. And you just said Liz. Did you mean Liz

04 24 33PM 24 Neuman?

04 24 33PM 25 A. Yes. Liz Neuman. She was definitely a

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04 24 37PM 1 hierarchy in there.

04 24 38PM 2 Q. She was above you?

04 24 40PM 3 A. She was there right under Megan and Josh.

04 24 41PM 4 I just kind of forgot for a minute because we

04 24 42PM 5 weren't talking about her.

04 24 50PM 6 Q. Miss Haley, let me ask you to tell the

04 24 54PM 7 jury what were the duties and responsibilities of a

04 24 58PM 8 Dream Team member, which you were.

04 24 59PM 9 A. It was to help facilitate the event and

04 25 08PM 10 take care of the participants.

04 25 11PM 11 Q. What did that mean to you, to take care

04 25 13PM 12 of the participants?

04 25 14PM 13 A. Keep them safe and to make sure their

04 25 19PM 14 needs were met, that they were getting what they

04 25 21PM 15 needed, whatever that was -- emotionally,

04 25 24PM 16 physically. And if I couldn't do it, give them

04 25 29PM 17 somebody that could.

04 25 30PM 18 Q. And don't take this question wrong. But

04 25 32PM 19 did anybody from James Ray International ever

04 25 35PM 20 assess your qualifications to do that?

04 25 40PM 21 A. I guess they assessed it by my essay.

04 25 44PM 22 Q. Was there an interview that you ever

04 25 49PM 23 participated in in order to become a Dream Team

04 25 51PM 24 member?

04 25 51PM 25 A. Just the essay and my experience in his

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04 25 54PM 1 company, which was a lot --

04 25 57PM 2 Q. Which was the prior event --

04 25 58PM 3 A. -- which is 13 events.

04 26 03PM 4 Q. Were you at any point ever evaluated by

04 26 06PM 5 Mr. Ray or his staff?

04 26 11PM 6 A. No.

04 26 12PM 7 Q. At some point in time did you sign a

04 26 21PM 8 release, Miss Haley?

04 26 23PM 9 A. Yes.

04 26 23PM 10 Q. When did you sign a release?

04 26 26PM 11 A. Every single time I went to a James Ray

04 26 28PM 12 event.

04 26 29PM 13 Q. And let me direct your attention to

04 26 31PM 14 Spiritual Warrior 2009. Did you sign a release

04 26 33PM 15 then?

04 26 33PM 16 A. I'm sure I did.

04 26 41PM 17 MS. DO: Your Honor, the defense will

04 26 42PM 18 stipulate to 187.

04 26 45PM 19 THE COURT: Then 187 is admitted.

04 26 48PM 20 (Exhibit 187 admitted.)

04 26 49PM 21 Q. BY MS. POLK: I'm going to place up on

04 26 54PM 22 the overhead 187. Can you see that?

04 26 54PM 23 A. Yes.

04 26 54PM 24 Q. And I'm going to scoot it up. Are you

04 26 55PM 25 able to see your --

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04 26 55PM 1 A. Yes.

04 26 56PM 2 Q. -- signature on it?

04 26 58PM 3 A. Yes.

04 26 57PM 4 Q. When did you sign that?

04 26 58PM 5 A. The day I got there, 10/1/09.

04 27 01PM 6 Q. What were you told about signing a

04 27 03PM 7 release with Angel Valley?

04 27 05PM 8 A. Nothing.

04 27 11PM 9 Q. Do you know why you signed a release with

04 27 14PM 10 Angel Valley?

04 27 18PM 11 A. So I could Dream Team the event.

04 27 21PM 12 Q. Do you know why you did not sign a

04 27 23PM 13 release for James Ray International?

04 27 28PM 14 A. Probably because I wasn't doing the

04 27 31PM 15 exercises. I probably would have thought that I

04 27 34PM 16 would have signed one then too. I think I probably

04 27 37PM 17 did sign one for James.

04 27 41PM 18 Q. Do you know if you did?

04 27 43PM 19 A. I'm pretty sure I did.

04 27 45PM 20 Q. Have you ever seen one that you signed?

04 27 48PM 21 A. Yeah.

04 27 49PM 22 Q. When? When did you see one?

04 27 51PM 23 A. Well, I mean, like I said, every event I

04 27 54PM 24 went to I've signed them. And I do believe I had

04 27 56PM 25 to sign one then too. But maybe I didn't.

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04 28 12PM 1 Q. Okay. Are you familiar with the

04 28 14PM 2 expression "playing full on"?

04 28 17PM 3 A. Yes.

04 28 17PM 4 Q. When did you first hear that expression?

04 28 18PM 5 A. 2005, my first event, Harmonic Wealth.

04 28 22PM 6 Q. Who did you hear that from?

04 28 25PM 7 A. James Ray.

04 28 25PM 8 Q. What does that expression mean to you?

04 28 27PM 9 A. It means whatever it is you're going to

04 28 30PM 10 do giving it everything you got.

04 28 33PM 11 Q. Have you played full on?

04 28 34PM 12 A. Yes.

04 28 41PM 13 Q. On October 3rd, 2009, is that when

04 28 46PM 14 participants arrived?

04 28 47PM 15 A. Yes.

04 28 48PM 16 Q. Were you involved in the registration

04 28 50PM 17 process with the participants?

04 28 54PM 18 A. Yes.

04 28 54PM 19 Q. Where was that process held?

04 28 58PM 20 A. It was in a tent outside. They actually

04 28 59PM 21 made a big special tent it looked like.

04 29 06PM 22 Q. And what was your role in the

04 29 07PM 23 registration process?

04 29 08PM 24 A. Just to get people to sign the paperwork

04 29 11PM 25 and keep the paperwork together.

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04 29 13PM 1 Q. What paperwork do you recall people
 04 29 15PM 2 signing?
 04 29 15PM 3 A. Release forms.
 04 29 17PM 4 Q. Release forms for what? What do you
 04 29 19PM 5 remember?
 04 29 21PM 6 A. That they were just release forms.
 04 29 27PM 7 They're very vague if you read them really -- some
 04 29 30PM 8 of them. So I just get them to sign whatever
 04 29 35PM 9 papers they put in front of me. I'm, like, here.
 04 29 38PM 10 Sign them. Is it all signed? Is it all filled
 04 29 41PM 11 out? You didn't sign this side. Fill that out.
 04 29 45PM 12 Q. When participants were signing those
 04 29 47PM 13 release forms, did you provide them with any
 04 29 49PM 14 information about the upcoming events?
 04 29 51PM 15 A. No.
 04 29 51PM 16 Q. Did you obtain from participants any
 04 29 54PM 17 health information as they were signing those
 04 29 57PM 18 release forms?
 04 29 57PM 19 A. No.
 04 29 58PM 20 Q. And did you obtain from participants such
 04 30 04PM 21 things as physical exams that were -- physicals
 04 30 08PM 22 from their doctor as --
 04 30 07PM 23 A. No.
 04 30 07PM 24 Q. Let me finish.
 04 30 07PM 25 A. Sorry.
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04 30 07PM 1 Q. -- as part of the registration process?
 04 30 12PM 2 A. No.
 04 30 18PM 3 Q. You've heard, Miss Haley, about one of
 04 30 26PM 4 the early events, which was a head shaving event?
 04 30 28PM 5 A. Yes.
 04 30 28PM 6 Q. Had you done that at prior James Ray
 04 30 32PM 7 events?
 04 30 32PM 8 A. The 2007 that I went to?
 04 30 34PM 9 Q. Yes.
 04 30 35PM 10 A. You mean did he ask people to do it then?
 04 30 38PM 11 Q. Well, have you ever shaved your head at a
 04 30 41PM 12 James Ray seminar?
 04 30 42PM 13 A. No. I decided I wasn't going to shave my
 04 30 46PM 14 head. I just cut my ponytail off.
 04 30 49PM 15 Q. When was that?
 04 30 49PM 16 A. 2007.
 04 30 50PM 17 Q. Now, let's talk about Spiritual
 04 30 53PM 18 Warror 2009. As a Dream Team member, did you have
 04 30 56PM 19 a role in the head shaving events?
 04 30 59PM 20 A. Yes.
 04 31 00PM 21 Q. Tell the jury what your role was.
 04 31 03PM 22 A. Shave heads.
 04 31 03PM 23 Q. You had to shave heads?
 04 31 03PM 24 A. Yes, I did.
 04 31 04PM 25 Q. And you told us yesterday you're a --
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04 31 05PM 1 A. Hairstylist for 28 years. Hairstylist 28
 04 31 09PM 2 years. Yes.
 04 31 09PM 3 Q. As such, you know how to shave heads?
 04 31 11PM 4 A. No. I never shaved heads before
 04 31 15PM 5 actually.
 04 31 18PM 6 Q. Would you tell the jury what you remember
 04 31 20PM 7 about Mr. Ray telling participants to encourage
 04 31 25PM 8 them to shave their heads.
 04 31 27PM 9 A. Why we do it was to get out of our ego
 04 31 32PM 10 and our vanity, and we were more than what we
 04 31 35PM 11 looked like.
 04 31 38PM 12 Q. How many heads did you shave for the
 04 31 42PM 13 Spiritual Warrior 2009?
 04 31 43PM 14 A. I don't know. A lot.
 04 31 45PM 15 Q. Pardon me?
 04 31 47PM 16 A. A lot.
 04 31 48PM 17 Q. How many days did you shave heads on?
 04 31 51PM 18 A. The first two days up until the last day.
 04 32 00PM 19 I mean, we gave everybody an opportunity every day.
 04 32 04PM 20 The only time I wasn't out there to do it was when
 04 32 06PM 21 they were on the mountain on the Vision Quest.
 04 32 11PM 22 People were coming left and right and between for
 04 32 14PM 23 the five days.
 04 32 15PM 24 Q. Were you at a station to shave heads?
 04 32 18PM 25 A. No. We did it two different places.
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04 32 21PM 1 Q. How did you know when somebody wanted
 04 32 23PM 2 their head shaved?
 04 32 25PM 3 A. They'd come up to me and tell me. Well,
 04 32 29PM 4 they were in a line in the beginning -- We did a
 04 32 31PM 5 lot of them in the beginning, and then more came.
 04 32 32PM 6 Q. Let's talk about in the beginning. Where
 04 32 34PM 7 did it first take place?
 04 32 36PM 8 A. By the kitchen.
 04 32 38PM 9 Q. And was there a set up?
 04 32 38PM 10 A. Yes.
 04 32 39PM 11 Q. What did it look like?
 04 32 40PM 12 A. Two chairs and clippers with big, long
 04 32 46PM 13 electric cords because we weren't close to a plug.
 04 32 50PM 14 Q. How many people came up for the first
 04 32 53PM 15 head shaving event?
 04 32 54PM 16 A. Most of them. I'd say a good two-thirds
 04 32 59PM 17 of the people.
 04 33 01PM 18 Q. Was Mr. Ray there?
 04 33 03PM 19 A. Yeah, he was there.
 04 33 07PM 20 Q. And what was the atmosphere like?
 04 33 09PM 21 A. They were pretty pumped up.
 04 33 12PM 22 Q. Was Mr. Ray saying anything?
 04 33 14PM 23 A. No. He was sitting there until it was --
 04 33 19PM 24 I started to shave a man's head, and he asked me to
 04 33 23PM 25 take the guard off, and I started to get weak.
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04 33 30PM 1 Q. Let's go through that bit by bit. Do you
 04 33 33PM 2 know whose head you were shaving?
 04 33 35PM 3 A. **This man.**
 04 33 37PM 4 Q. And you were asked to take the guard off.
 04 33 39PM 5 What's the guard?
 04 33 41PM 6 A. **The guard is, like, what length the hair**
 04 33 43PM 7 **is going to be. When you are going to shave it, it**
 04 33 45PM 8 **could be a 4 or a 3 or a 4, up to an 8, for the**
 04 33 47PM 9 **length of the buzz. But now he wanted me to take**
 04 33 49PM 10 **it off and make the guys bald this year because**
 04 33 51PM 11 **they weren't before.**
 04 33 53PM 12 Q. Who is he?
 04 33 55PM 13 A. **James Ray.**
 04 33 57PM 14 Q. Is it your testimony that at some point
 04 33 59PM 15 Mr. Ray talked to you about what you were doing in
 04 34 01PM 16 terms of head shaving?
 04 34 03PM 17 A. **Right. He gave me some instruction right**
 04 34 05PM 18 **then to take the guard off, and I said I was**
 04 34 07PM 19 **scared. It's hot. I did my dog once. It burned**
 04 34 09PM 20 **my dog. So I was afraid. And so then he said, do**
 04 34 11PM 21 **it, so I did it.**
 04 34 13PM 22 Q. Okay. Let's go through it slowly. What
 04 34 15PM 23 was hot?
 04 34 17PM 24 A. **The blade sometimes from the clippers can**
 04 34 19PM 25 **get hot. It didn't, but I thought it might.**
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04 34 28PM 1 Q. And the guard can cut at different
 04 34 30PM 2 levels?
 04 34 32PM 3 A. **Right. This is no level. This is bald.**
 04 34 34PM 4 Q. And how was it -- what were you doing
 04 34 36PM 5 when Mr. Ray came up to you to tell you to take the
 04 34 38PM 6 guard off?
 04 34 40PM 7 A. **Well, he didn't come up to me. He was**
 04 34 42PM 8 **sitting there watching, and he said, take it off,**
 04 34 44PM 9 **you know.**
 04 34 46PM 10 Q. What did you say?
 04 34 48PM 11 A. **I said, it's hot. It may burn his head.**
 04 34 50PM 12 Q. And what did Mr. Ray say?
 04 34 52PM 13 A. **Take it off.**
 04 34 54PM 14 Q. And what did you do?
 04 34 56PM 15 A. **Take it off.**
 04 35 00PM 16 Q. You took it off?
 04 35 02PM 17 A. **I took it off.**
 04 35 04PM 18 Q. And then what happened?
 04 35 06PM 19 A. **I started shaving really slow to see how**
 04 35 08PM 20 **it was going and making everything perfect, like I**
 04 35 10PM 21 **do. And he said, just get on with it. There is a**
 04 35 12PM 22 **lot of people.**
 04 35 14PM 23 Q. How long were you taking with each
 04 35 16PM 24 participant to shave their head?
 04 35 18PM 25 A. **It was probably taking six minutes --**
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04 35 28PM 1 **five to six minutes, which was a long time really.**
 04 35 29PM 2 Q. Did somebody say something to you about
 04 35 31PM 3 how long you were taking?
 04 35 33PM 4 A. **Yeah. That was other times. I was**
 04 35 35PM 5 **getting in trouble for that a lot.**
 04 35 37PM 6 Q. Who got you in trouble?
 04 35 39PM 7 A. **Well, he was getting a little annoyed**
 04 35 41PM 8 **right then. But he --**
 04 35 43PM 9 Q. Who is "he"?
 04 35 45PM 10 A. **James Ray was a little annoyed. It was**
 04 35 47PM 11 **just taking direction. I wasn't taking it really**
 04 35 49PM 12 **quickly. Then we just got on our thing. So I**
 04 35 51PM 13 **didn't really get in trouble anymore that night**
 04 35 53PM 14 **over not -- over taking too long. Oh.**
 04 35 55PM 15 **Christine -- she'd get on my case. She was the**
 04 35 57PM 16 **other one shaving heads. She'd do it fast. But I**
 04 36 01PM 17 **would get in trouble if I left Megan and stuff**
 04 36 03PM 18 **later because I take 15, 20 minutes.**
 04 36 05PM 19 Q. Let's move on to the daily schedule. As
 04 36 07PM 20 a Dream Team member, what time were you expected to
 04 36 09PM 21 get up every day?
 04 36 11PM 22 A. **That changed. About 6:00. 6:00 was**
 04 36 13PM 23 **yoga. We had to do yoga at 6:00 in the morning.**
 04 36 15PM 24 **But there were -- there was a day that we had to --**
 04 36 17PM 25 **some of us Dream Team people had to work with the**
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04 36 53PM 1 **participants that were writing because, basically,**
 04 36 55PM 2 **they would stay up all night.**
 04 36 57PM 3 Q. And I want to interrupt you. Just in
 04 37 00PM 4 general, though --
 04 37 02PM 5 A. **6:00.**
 04 37 04PM 6 Q. -- the expectation was as a Dream Team
 04 37 06PM 7 member what?
 04 37 08PM 8 A. **6:00.**
 04 37 10PM 9 Q. Did that apply to Liz Neuman as well?
 04 37 12PM 10 A. **Yes.**
 04 37 14PM 11 Q. Throughout the week did you get enough
 04 37 16PM 12 sleep?
 04 37 18PM 13 A. **No.**
 04 37 20PM 14 Q. Why not?
 04 37 22PM 15 A. **Because three hours, two and a half**
 04 37 24PM 16 **hours, is not enough for me.**
 04 37 26PM 17 Q. A night?
 04 37 28PM 18 A. **Yeah. For a couple of nights.**
 04 37 30PM 19 Q. Why was it that you only got two and a
 04 37 32PM 20 half to three hours of sleep a night during that
 04 37 34PM 21 seminar?
 04 37 36PM 22 A. **Because that was the schedule. I offered**
 04 37 38PM 23 **a suggestion on that when Megan asked for**
 04 37 40PM 24 **suggestions but --**
 04 37 42PM 25 Q. The expectation was that you would not
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04 37 41PM 1 sleep much as a Dream Team member?

04 37 42PM 2 **A. Yeah. I questioned her on that. I did**

04 37 46PM 3 **not think it was a good idea that we get three**

04 37 47PM 4 **hours sleep and support the whole thing.**

04 37 54PM 5 **Q.** Were you aware, Miss Haley, about how

04 37 54PM 6 much sleep Miss Neuman was getting?

04 37 57PM 7 **A. I would guess what we were getting.**

04 37 58PM 8 MS. DO: Objection. Foundation.

04 38 01PM 9 THE COURT: Sustained.

04 38 02PM 10 MS. POLK: I just asked if she was aware,

04 38 05PM 11 Your Honor.

04 38 05PM 12 THE COURT: You may respond to that as yes or

04 38 06PM 13 no if you can do it that way.

04 38 19PM 14 THE WITNESS: Yes.

04 38 22PM 15 **Q.** BY MS. POLK: Did the Dream Team members

04 38 25PM 16 work together?

04 38 26PM 17 **A. Yes.**

04 38 26PM 18 **Q.** Throughout the entire week?

04 38 30PM 19 **A. Does that mean that all of us were**

04 38 33PM 20 **together all at the same time all the time?**

04 38 37PM 21 **Q.** Yes.

04 38 38PM 22 **A. No.**

04 38 38PM 23 **Q.** When were you not together?

04 38 40PM 24 **A. When we went in two groups two different**

04 38 47PM 25 **times, one time to support the people that stayed**

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04 38 51PM 1 **up all night. We'd go from 12:00 to 3:00 or 3:00**

04 38 54PM 2 **to 6:00. And we'd share that two nights. And**

04 38 01PM 3 **another time was our day off where everybody was at**

04 38 05PM 4 **the Vision Quest, that half of the members would**

04 38 07PM 5 **stay during the day and half of us would be there**

04 38 11PM 6 **at night so that there was always somebody there.**

04 38 14PM 7 **Q.** Okay. Let's talk about participants who

04 38 17PM 8 stayed up all night, as you just said. Tell the

04 38 20PM 9 jury what you know about participants staying up

04 38 24PM 10 all night.

04 38 28PM 11 MS. DO: Objection. Foundation, Your Honor.

04 38 32PM 12 THE COURT: Basis of knowledge. Sustained on

04 38 35PM 13 foundation.

04 38 35PM 14 **Q.** BY MS. POLK: Do you know whether

04 38 37PM 15 participants at the Spiritual Warrior 2009 events

04 38 40PM 16 stayed up all night?

04 38 41PM 17 **A. Yes.**

04 38 41PM 18 **Q.** How do you know that?

04 38 42PM 19 **A. Because I was up all night with them.**

04 38 44PM 20 **Q.** Tell the jury what it was that

04 38 46PM 21 participants were working on and why was it that

04 38 46PM 22 they were up all night.

04 38 53PM 23 **A. Well, they paid a lot of money to be --**

04 38 56PM 24 MS. DO: Objection. Speculation.

04 38 59PM 25 THE WITNESS: It's not speculation because

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04 40 01PM 1 I've talked --

04 40 02PM 2 THE COURT: Miss Haley.

04 40 08PM 3 It's a question of foundation.

04 40 11PM 4 MS. POLK: I'll ask a better question, Judge.

04 40 12PM 5 THE WITNESS: Okay.

04 40 12PM 6 THE COURT: Okay.

04 40 14PM 7 **Q.** BY MS. POLK: Let's just go through it

04 40 15PM 8 night by night, Miss Haley. Sunday was when

04 40 17PM 9 participants arrived. Do you recall that --

04 40 19PM 10 **A. Yes.**

04 40 20PM 11 **Q.** -- being October 3rd?

04 40 21PM 12 That night -- did you work that night?

04 40 24PM 13 **A. The first night the participants got**

04 40 26PM 14 **there, yes.**

04 40 28PM 15 **Q.** How late did you stay up that night?

04 40 33PM 16 **A. I would guess around midnight.**

04 40 38PM 17 **Q.** What were you doing until midnight?

04 40 38PM 18 **A. Well, we shaved heads, we had dinner, and**

04 40 42PM 19 **we had a class. And then after everybody -- we**

04 40 49PM 20 **talked about recalculations and what they were**

04 40 51PM 21 **going to do the next day, and then they left. And**

04 40 54PM 22 **then the Dream Team members stayed and talked about**

04 40 58PM 23 **how the first day went and what we were going to do**

04 41 01PM 24 **the next day.**

04 41 02PM 25 **Q.** What time did participants, most of them,

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04 41 08PM 1 go to bed the first night?

04 41 09PM 2 **A. They left that room around 12:00.**

04 41 11PM 3 **Q.** What room was that?

04 41 12PM 4 **A. That was the classroom.**

04 41 15PM 5 **Q.** And who led the discussion of the Dream

04 41 18PM 6 Team members about how the first day went?

04 41 20PM 7 **A. Megan and Josh.**

04 41 21PM 8 **Q.** That night what time did you go to bed?

04 41 23PM 9 **A. Around 1:30.**

04 41 29PM 10 **Q.** Was Liz Neuman with you until 1:30?

04 41 34PM 11 **A. No. 1:00.**

04 41 38PM 12 **Q.** What time did Liz leave you?

04 41 40PM 13 **A. Yeah. Around 1:00 when we left the room.**

04 41 43PM 14 **Q.** Monday morning what time did you get up?

04 41 45PM 15 **A. I was ready for yoga at 6:00. So I**

04 41 49PM 16 **probably got up at 10 till 6:00 and ran to yoga.**

04 41 53PM 17 **Q.** Did you see Liz Neuman at yoga on Monday

04 41 58PM 18 morning?

04 41 57PM 19 **A. I don't remember.**

04 41 58PM 20 **Q.** Monday night did you stay up late?

04 42 02PM 21 **A. Yes.**

04 42 02PM 22 **Q.** What were you doing?

04 42 03PM 23 **A. I was going through recalculations,**

04 42 09PM 24 **writings.**

04 42 09PM 25 **Q.** You were looking at someone else's

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04 42 11PM 1 writings?

04 42 11PM 2 A. **If they came up to me and asked for help.**

04 42 14PM 3 Q. Where did that occur?

04 42 14PM 4 A. **In the kitchen eating and -- dining**

04 42 14PM 5 **room -- dining room.**

04 42 22PM 6 Q. How many participants would you say were

04 42 24PM 7 with you that night?

04 42 28PM 8 A. **Fifteen to twenty.**

04 42 36PM 9 Q. What time did you go to bed that night?

04 42 38PM 10 A. **3:00.**

04 42 40PM 11 Q. Do you know where Liz Neuman was that

04 42 43PM 12 night?

04 42 45PM 13 A. **I believe she was sleeping. We weren't**

04 42 50PM 14 **on the same schedule, so I don't know.**

04 42 51PM 15 Q. Explain to the jury the schedule that you

04 42 54PM 16 had for that night.

04 42 56PM 17 A. **I had from 12:00 to 3:00 with two other**

04 43 00PM 18 **people.**

04 43 01PM 19 Q. Were the other two people Dream Team

04 43 05PM 20 members?

04 43 05PM 21 A. **Yes.**

04 43 05PM 22 Q. And then was there an alternative

04 43 08PM 23 schedule for the remaining --

04 43 09PM 24 A. **The others were supposed to do the next**

04 43 13PM 25 **day of 3:00 to 6:00, however it worked out. There**

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04 43 17PM 1 **is 12:00 to 3:00 -- oh. We switched them up.**

04 43 20PM 2 **Right. So she did 3:00 to 6:00 that day.**

04 43 24PM 3 Q. 3:00 a.m. to 6:00 a.m.?

04 43 26PM 4 A. **Uh-huh.**

04 43 26PM 5 Q. On what day?

04 43 27PM 6 A. **On Monday.**

04 43 28PM 7 Q. Monday morning?

04 43 29PM 8 A. **Right.**

04 43 29PM 9 Q. Okay.

04 43 31PM 10 A. **Well, right. Morning. So if I did 12:00**

04 43 34PM 11 **to 3:00, then she did 3:00 to 6:00.**

04 43 36PM 12 Q. What happened Tuesday night specifically

04 43 38PM 13 about sleeping? What time did you go to sleep?

04 43 39PM 14 A. **So the next day I did 3:00 to 6:00. I**

04 43 48PM 15 **went to sleep around -- I tried to go to sleep at**

04 43 53PM 16 **midnight, 12:30.**

04 43 56PM 17 Q. Were you required to stay up Tuesday

04 43 58PM 18 night as well?

04 43 59PM 19 A. **Or 2:30. It was the next one. I went --**

04 44 05PM 20 **wait. I'm confused for a minute.**

04 44 07PM 21 Q. That's okay. Take your time.

04 44 07PM 22 A. **Okay. So if I did 12:00 to 3:00, the**

04 44 13PM 23 **next day I did -- yeah. I tried to go to bed at**

04 44 16PM 24 **midnight. I went to bed at 12:30. I got up at**

04 44 20PM 25 **3:00 and ran to the dining room.**

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04 44 21PM 1 Q. You're talking about Tuesday night?

04 44 23PM 2 A. **Right.**

04 44 23PM 3 Q. You ran to the dining room at 3:00 to do

04 44 23PM 4 what?

04 44 26PM 5 A. **To just see if people needed support.**

04 44 28PM 6 Q. Did you, then, remain awake?

04 44 30PM 7 A. **Yes.**

04 44 31PM 8 Q. From Tuesday until when?

04 44 33PM 9 A. **Till Wednesday night.**

04 44 41PM 10 Q. The jury has heard about a game called

04 44 46PM 11 the "Samurai Game," Miss Haley. And are you aware

04 44 55PM 12 of the Samurai Game having been played at Spiritual

04 45 00PM 13 Warrior 2009?

04 45 00PM 14 A. **Yes.**

04 45 00PM 15 Q. Had you played it before in 2007?

04 45 03PM 16 A. **Yes.**

04 45 04PM 17 Q. Did Mr. Ray ever tell you as the Dream

04 45 10PM 18 Team members what your -- what his expectations of

04 45 13PM 19 you were for that game?

04 45 14PM 20 A. **Yes.**

04 45 15PM 21 Q. What were his expectations of you?

04 45 18PM 22 A. **To help support the game, which was --**

04 45 23PM 23 **you know -- if people died, make sure they stayed**

04 45 26PM 24 **there and they didn't move. And when we needed to**

04 45 31PM 25 **move them to the other part because the game went**

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04 45 35PM 1 **on all day -- I'd say it started probably from noon**

04 45 41PM 2 **until 10:00 or about then. It could have been**

04 45 47PM 3 **10:00. But I think it started around noon, 1:00 to**

04 45 49PM 4 **10:00. Yeah. We were just there to enforce the**

04 45 55PM 5 **game, the rules.**

04 45 56PM 6 Q. How were you supposed to enforce the

04 45 59PM 7 rules?

04 45 59PM 8 A. **By making sure everybody was doing what**

04 46 04PM 9 **they were supposed to do. If they were dead, they**

04 46 06PM 10 **were staying dead. And if they weren't, they were**

04 46 08PM 11 **moving, to give them consequences.**

04 46 11PM 12 Q. What would be a consequence for somebody

04 46 15PM 13 moving when they were supposed to be dead?

04 46 18PM 14 A. **They would lose another team member.**

04 46 18PM 15 Q. Did that happen?

04 46 19PM 16 A. **No.**

04 46 22PM 17 Q. Did Mr. Ray ever tell you what the

04 46 24PM 18 purpose or the point of this Samurai Game was?

04 46 27PM 19 A. **Integrity, team member.**

04 46 32PM 20 Q. What do you mean by "team member"?

04 46 34PM 21 A. **Working for a team because now, I mean,**

04 46 38PM 22 **your integrity is you're going to lie on the floor.**

04 46 41PM 23 **If you died early, your integrity is to be there**

04 46 44PM 24 **for your team, not just for yourself, so integrity**

04 46 51PM 25 **in your life.**

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04 46 53PM 1 Q. How does lying there dead on the floor
 04 46 54PM 2 have anything to do with your team members?
 04 46 57PM 3 A. Well, in this particular game if you
 04 47 00PM 4 moved, you're probably -- they're going to lose
 04 47 01PM 5 because you're going to lose people if you don't
 04 47 07PM 6 follow the rules.
 04 47 10PM 7 Q. Did the game have anything to do with
 04 47 13PM 8 thinking independently?
 04 47 24PM 9 A. Some of it. Yeah.
 04 47 25PM 10 Q. How so?
 04 47 27PM 11 A. Well, there were ninjas and there were
 04 47 33PM 12 things that you could do on your own if you could
 04 47 36PM 13 get creative enough to tag somebody out. And I
 04 47 40PM 14 don't even know all the rules because the first
 04 47 42PM 15 time I played we were out. Before I even knew how
 04 47 45PM 16 to play, our game was over. But this one was long,
 04 47 50PM 17 intense. So I didn't know what they all were.
 04 47 54PM 18 But, yes. You can get creative and be independent.
 04 47 58PM 19 But it wasn't an independent game. It was a team
 04 48 01PM 20 game.
 04 48 02PM 21 Q. And if a team member broke the rule,
 04 48 05PM 22 there was consequences for other team members?
 04 48 07PM 23 A. Right.
 04 48 08PM 24 Q. Describe the atmosphere of the game as it
 04 48 12PM 25 was being played.

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04 48 13PM 1 A. Well, it started off kind of light and
 04 48 16PM 2 got heavier as the night got on. I'd say the last
 04 48 19PM 3 two hours, pretty intense.
 04 48 22PM 4 Q. How so?
 04 48 23PM 5 A. Well, we moved the game into a big tent
 04 48 31PM 6 where the people that were left alive were now --
 04 48 37PM 7 James in this game plays God and gives them certain
 04 48 47PM 8 competitions on these things. So we would pick one
 04 48 52PM 9 person for each team, and then he would say what it
 04 48 59PM 10 was, to hold a book out in your hands, who can do
 04 49 03PM 11 it the longest. Now, that's painful in itself.
 04 49 06PM 12 And then we have dead people that are getting cold
 04 49 10PM 13 who have laid down for hours. You know it. It's
 04 49 13PM 14 all pretty intense.
 04 49 16PM 15 Q. Did you dress up for the game?
 04 49 18PM 16 A. Yes.
 04 49 20PM 17 Q. What were you dressed up in?
 04 49 21PM 18 A. I was a dead person, a ghost. I was a
 04 49 26PM 19 death angel.
 04 49 26PM 20 Q. You were a death angel?
 04 49 28PM 21 A. Yes.
 04 49 32PM 22 Q. Did Mr. Ray dress up?
 04 49 32PM 23 A. Yes.
 04 49 32PM 24 Q. What was he dressed in?
 04 49 34PM 25 A. All white.

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04 49 35PM 1 Q. Was there anything on his head?
 04 49 38PM 2 A. I don't remember. But I know he was God.
 04 49 41PM 3 Nobody spoke to him except one person.
 04 49 44PM 4 Q. Who was that person?
 04 49 45PM 5 A. Well, Dream Team members were allowed to.
 04 49 48PM 6 But in the game -- you know.
 04 49 50PM 7 Q. You said all white. What specifically
 04 49 53PM 8 was Mr. Ray wearing?
 04 49 55PM 9 A. He was just, like, in this white gown
 04 50 00PM 10 thing -- you know -- playing God.
 04 50 02PM 11 Q. A robe type --
 04 50 03PM 12 A. Yeah.
 04 50 04PM 13 Q. When did you learn what your role was in
 04 50 08PM 14 this game?
 04 50 09PM 15 A. As it was happening. It was kind of like
 04 50 17PM 16 as need to know. Like, we didn't dress up. I
 04 50 20PM 17 didn't dress up right from the beginning. I guess
 04 50 24PM 18 I did dress up in the beginning. Didn't I? I
 04 50 29PM 19 found out I was supposed to dress up when I found
 04 50 31PM 20 out I was supposed to dress up.
 04 50 33PM 21 I knew the game was going to take place.
 04 50 36PM 22 Times got off so that -- you know -- they just
 04 50 38PM 23 started rolling and going okay. Time to go get
 04 50 41PM 24 dressed up, go in there. I never knew really what
 04 50 44PM 25 I was going to do until I was told to go do it

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04 50 47PM 1 right then.
 04 50 48PM 2 Q. Do you know somebody named Kirby Brown?
 04 50 52PM 3 A. I knew her from the event.
 04 50 54PM 4 Q. I'm going to put up on the overhead
 04 50 58PM 5 Exhibit 404. Who is that?
 04 51 01PM 6 A. Kirby Brown.
 04 51 03PM 7 Q. When did you first meet Kirby?
 04 51 05PM 8 A. You know, at the Spiritual Warrior
 04 51 07PM 9 registration.
 04 51 08PM 10 Q. In 2009?
 04 51 09PM 11 A. Yes.
 04 51 10PM 12 Q. Do you remember her from the
 04 51 11PM 13 registration?
 04 51 13PM 14 A. Not really. Just somebody walking by. I
 04 51 17PM 15 remember seeing her but not interacting with her.
 04 51 19PM 16 Q. Did you become aware of Kirby
 04 51 22PM 17 specifically at some point during the week?
 04 51 24PM 18 A. Yeah. During the Samurai Game.
 04 51 27PM 19 Q. And tell the jury how you became aware of
 04 51 30PM 20 Kirby during the Samurai Game.
 04 51 32PM 21 A. I saw that when she went in the tent, she
 04 51 36PM 22 was shaking. She looked cold. I went and got her
 04 51 41PM 23 a blanket.
 04 51 42PM 24 Q. Let me back you up. Where did the game
 04 51 44PM 25 start?

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04 51 45PM 1 **A. It started in a classroom.**

04 51 48PM 2 **Q.** Were you aware of Kirby Brown in the

04 51 51PM 3 classroom during the game?

04 51 54PM 4 **A. No. I think I left. I was there, but I**

04 51 57PM 5 **was doing something else.**

04 51 59PM 6 **Q.** How was your attention -- well, when was

04 52 02PM 7 it that you moved from the classroom to the tent?

04 52 05PM 8 **A. At nighttime. After dinner.**

04 52 08PM 9 **Q.** Do you know where Kirby Brown was during

04 52 11PM 10 dinner?

04 52 14PM 11 **A. She was dead, so she wasn't eating.**

04 52 17PM 12 **Q.** You said she was dead. When did you

04 52 20PM 13 become aware that Kirby Brown was dead?

04 52 23PM 14 **A. Really I really didn't notice until we**

04 52 26PM 15 **were going in the other tent. And then we were**

04 52 29PM 16 **bringing them.**

04 52 32PM 17 **Q.** Were you part of the Dream Team members

04 52 35PM 18 who brought those who were dead from the classroom

04 52 38PM 19 to the tent?

04 52 41PM 20 **A. Yeah.**

04 52 44PM 21 **Q.** How did you do that?

04 52 47PM 22 **A. I would take their hands, put them behind**

04 52 50PM 23 **my back, have them keep their eyes closed. They**

04 52 53PM 24 **would just follow me.**

04 52 56PM 25 MS. POLK: Your Honor, I see the time. Do you

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04 52 44PM 1 want me to stop here?

04 52 47PM 2 THE COURT: Please. We'll take the recess in

04 52 50PM 3 just a moment.

04 52 53PM 4 I wanted to remind Miss Haley about the

04 52 56PM 5 rule of the exclusion of witnesses. First of all,

04 52 59PM 6 a person who is a witness can't be in the courtroom

04 53 02PM 7 when other witnesses are testifying. That also

04 53 05PM 8 means that you cannot communicate in any way with

04 53 08PM 9 any other witness about the case or the testimony

04 53 11PM 10 whatsoever.

04 53 14PM 11 Actually, the rule provides not to

04 53 17PM 12 communicate with other witnesses. In some

04 53 20PM 13 circumstances that just doesn't work out. You

04 53 23PM 14 absolutely cannot communicate about the case or

04 53 26PM 15 your testimony in any way.

04 53 29PM 16 And I've cautioned people also, because

04 53 32PM 17 of the all the means of communication now, not to

04 53 35PM 18 give information to a third party that could well

04 53 38PM 19 end up with somebody who might be a witness.

04 53 41PM 20 Do you understand what I'm saying on

04 53 44PM 21 that?

04 53 47PM 22 THE WITNESS: Yes.

04 53 50PM 23 THE COURT: So please remember the rule of

04 53 53PM 24 exclusion of witnesses. And I am going to excuse

04 53 56PM 25 you at this time, but I'm going to ask you to

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04 53 38PM 1 please leave the courtroom and make arrangements,

04 53 41PM 2 of course, with the attorneys for when you will be

04 53 44PM 3 appearing next. I just need to talk to the jury a

04 53 47PM 4 minute before recess. But you are excused at this

04 53 50PM 5 time.

04 53 53PM 6 THE WITNESS: Thank you.

04 53 56PM 7 (The witness leaves the room.)

04 54 00PM 8 THE COURT: Ladies and gentlemen, I just

04 54 03PM 9 wanted to really remind you of the importance of

04 54 06PM 10 the admonition now that there will be a significant

04 54 09PM 11 break. We're not going to resume until next

04 54 12PM 12 Tuesday. I'm going to say at 9:15 again next

04 54 15PM 13 Tuesday, to please be assembled by that time. If

04 54 18PM 14 something comes up and it appears it's going to be

04 54 21PM 15 much later, I will try to get word to you through

04 54 24PM 16 the jury commissioner to minimize inconvenience.

04 54 27PM 17 But for now plan on being back here at 9:15.

04 54 30PM 18 And I wanted to bring something up with

04 54 33PM 19 the attorneys present. One person had mentioned to

04 54 36PM 20 Heidi about hearing Mr. Ray's name mentioned when

04 54 39PM 21 somebody was on a cell phone and stopped the person

04 54 42PM 22 right away and didn't hear anything else. I really

04 54 45PM 23 want to reach a reasonable view of what it means.

04 54 48PM 24 Something like that would not be a problem. It

04 54 51PM 25 just isn't. You did exactly what was necessary.

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04 53 44PM 1 But at this point I just want to get an

04 53 47PM 2 idea of what's going on. So what I'm going to do

04 53 50PM 3 is ask Heidi to just have some notes there. You

04 53 53PM 4 can scribble something on it, a pencil with a

04 53 56PM 5 number, and I can just get an idea what kind of

04 53 59PM 6 exposure to media, people are trying to talk to

04 54 02PM 7 you. I can get an idea of that.

04 54 05PM 8 As we go along, I think we can get an

04 54 08PM 9 understanding and as to what is reasonable to

04 54 11PM 10 require. Because I don't want to burden people

04 54 14PM 11 with some just the most casual kind of thing such

04 54 17PM 12 as this. This is not a problem.

04 54 20PM 13 But at this point I just say I want to

04 54 23PM 14 know about it so I can keep the attorneys informed

04 54 26PM 15 of that as well.

04 54 29PM 16 But, again, please remember all aspects

04 54 32PM 17 of the admonition, not to talk to anyone about the

04 54 35PM 18 case. People at home may try to ask you something.

04 54 38PM 19 They can't do that. If they do, you know what to

04 54 41PM 20 do. Not trying to do any research of any kind and

04 54 44PM 21 avoid any media exposure.

04 54 47PM 22 And if something happens, let me know, as

04 54 50PM 23 I've indicated, by just making a note. And that

04 54 53PM 24 will get to me.

04 54 56PM 25 So you are excused. Take care. I'll see

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04:54:32PM 1 you next Tuesday at 9:15.

04:54:34PM 2 I'll ask the parties to remain for a bit.

04:54:34PM 3 (Proceedings continued outside presence

04:54:34PM 4 of jury.)

04:55:23PM 5 THE COURT: Thank you. Please be seated.

04:55:27PM 6 That was a very casual encounter apparently that

04:55:32PM 7 this juror had. If anybody thinks it ought to be

04:55:35PM 8 handled differently, this is the time to discuss

04:55:38PM 9 it. For now I just want to get an idea what people

04:55:41PM 10 think is contact. And I would rather have a note

04:55:42PM 11 when things come up.

04:55:42PM 12 Mr. Hughes.

04:55:44PM 13 MR. HUGHES: Your Honor, the state thinks

04:55:48PM 14 that's the appropriate way to handle it.

04:55:47PM 15 MR. LI: I agree, Your Honor.

04:55:54PM 16 THE COURT: We'll see as we go. We'll handle

04:55:58PM 17 it that way at this point.

04:55:57PM 18 One comment about a certain kind of

04:56:00PM 19 question that comes up.

04:56:05PM 20 And, Ms. Polk, when asking somebody about

04:56:08PM 21 a yes or no, are you aware of something. When I

04:56:11PM 22 really think of that question to a witness, being

04:56:15PM 23 aware can be through hearsay or -- you know -- to

04:56:18PM 24 us it may mean actually aware in a sense of actual

04:56:18PM 25 perception. So for those kinds of questions, it

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04:56:21PM 1 really is whether or not someone has personal

04:56:23PM 2 knowledge of something.

04:56:26PM 3 And that's just something to be alert to

04:56:28PM 4 that's come up. I tend to think yes or no. But

04:56:32PM 5 I'm thinking that's somebody saying they really

04:56:35PM 6 have some knowledge. It could just be, as I've

04:56:37PM 7 said, some type of hearsay or something that they

04:56:41PM 8 come on to. Just the fact they purport to have

04:56:44PM 9 knowledge may have some significance.

04:56:48PM 10 So just watch that kind of question,

04:56:50PM 11 please.

04:56:52PM 12 I wanted to make sure we handle the

04:56:55PM 13 issues that are out there, specifically the one

04:56:58PM 14 that's been briefed now by the defense. And I

04:57:01PM 15 don't want to take that up. Can't take that up

04:57:06PM 16 this evening. I think we need to look at it a

04:57:08PM 17 minute anyway now that I think about it.

04:57:11PM 18 Ms. Polk, it's my understanding you want

04:57:14PM 19 to play that excerpt that's actually transcribed

04:57:18PM 20 here in the brief. Is that right?

04:57:20PM 21 MS. POLK: Your Honor, it's one the reasons I

04:57:25PM 22 wanted to stop. I am at the point where it's about

04:57:28PM 23 to be played. I'm going to ask Mr. Hughes, if the

04:57:30PM 24 Court wants argument, because he's had a chance to

04:57:30PM 25 read the brief from the defense. I haven't had a

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04:57:33PM 1 chance to read it. I'm going to ask him, if the

04:57:36PM 2 Court wants argument, to do the argument on it.

04:57:41PM 3 THE COURT: I want to ask Ms. Do first.

04:57:45PM 4 Is this edited down? Is that what you

04:57:48PM 5 indicated? Is this what you plan on playing?

04:58:00PM 6 MS. DO: I think the excerpt provided to us on

04:58:02PM 7 the CD yesterday, that portion is edited. What

04:58:06PM 8 we've cited in the brief filed this morning is a

04:58:09PM 9 fuller context of the statement that Ms. Polk

04:58:11PM 10 intends to play.

04:58:12PM 11 THE COURT: Okay. And that's what I wanted to

04:58:14PM 12 know now. Because some of this should not be. I

04:58:19PM 13 can say that right at the start. Then we can

04:58:23PM 14 consider the legal argument on the rest of it.

04:58:27PM 15 Is there some way you can let me know

04:58:29PM 16 exactly what you intend to play or want to play?

04:58:32PM 17 MS. POLK: Your Honor, we intended to play, I

04:58:34PM 18 believe, everything that is in the defendant's

04:58:35PM 19 memorandum.

04:58:36PM 20 THE COURT: Okay.

04:58:38PM 21 Then, Ms. Do, do you have anything to add

04:58:41PM 22 to your brief?

04:58:43PM 23 MS. DO: Actually, it's Ms. Seifter's brief.

04:58:46PM 24 She's not here today. Well, I just want to make

04:58:48PM 25 sure that we're correct. I was handed a clip on a

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04:58:52PM 1 CD that was marked as Exhibit 735. I have listened

04:58:56PM 2 to that. And this is not the full clip that is

04:59:00PM 3 cited in the defense brief.

04:59:04PM 4 But I think the -- our argument,

04:59:06PM 5 essentially, Your Honor, I'm going to submit on the

04:59:08PM 6 brief. The one point I do want to highlight is

04:59:11PM 7 that the Court has already previously ruled that

04:59:13PM 8 this is not admissible under 803. So then the

04:59:16PM 9 state moved to a different theory, and it now wants

04:59:19PM 10 to admit this as evidence of Mr. Ray's state of

04:59:22PM 11 mind.

04:59:23PM 12 But a threshold finding that this court

04:59:25PM 13 needs to make is that this hearsay, even if it fits

04:59:29PM 14 arguably into an exception, must be the kind of

04:59:31PM 15 hearsay that is reliable. And the defense cited

04:59:36PM 16 the full context of the excerpt the state intends

04:59:38PM 17 to play to provide the Court with a context from

04:59:42PM 18 which to understand that the statement is not

04:59:45PM 19 reliable.

04:59:46PM 20 I think if the Court reads the excerpt,

04:59:48PM 21 it's very clear that Ms. Brown is speaking about

04:59:52PM 22 experiences that she has. And it's not clear

04:59:55PM 23 whether they're real, fiction, meditation, fantasy.

05:00:00PM 24 And to play these excerpts even for a

05:00:04PM 25 purported hearsay exception denies Mr. Ray the

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05:00:07PM 1 right to confront the statement. We have no way of
 05:00:11PM 2 cross-examining to determine whether or not this is
 05:00:16PM 3 fiction or whether this is a real experience.

05:00:21PM 4 And I think that to present this in the
 05:00:24PM 5 form the state wants to -- and, frankly, I think
 05:00:28PM 6 that the 403 is a real issue. We're very cognizant
 05:00:33PM 7 and very aware of the emotional impact in this
 05:00:37PM 8 case. To play the voice of Kirby Brown in order to
 05:00:42PM 9 get in hearsay for a very tenuous purpose. I think
 05:00:45PM 10 the balance under 403 tips against admission
 05:00:50PM 11 because of the prejudicial value of inflaming bias
 05:00:52PM 12 and passion.

05:00:59PM 13 THE COURT: And, of course, when hearsay no
 05:01:03PM 14 longer is hearsay because it's coming in for
 05:01:08PM 15 something other than the truth asserted, it can all
 05:01:12PM 16 be absolutely dishonest and incorrect. It's coming
 05:01:14PM 17 in for a different purpose -- so the accuracy is
 05:01:18PM 18 not the question if it's coming in for a different
 05:01:22PM 19 purpose.

05:01:24PM 20 It would be something to the effect --
 05:01:27PM 21 just taking this part. Because I was freezing, I
 05:01:31PM 22 had to go to the bathroom. I think I was -- and
 05:01:35PM 23 then it goes on about how much pain I was in and
 05:01:39PM 24 had to go to the bathroom so badly. That may not
 05:01:43PM 25 be true at all. That's the problem with the

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05:01:46PM 1 hearsay. If it's delayed -- it may have been
 05:01:50PM 2 fabricated. I'm not saying it was. I'm just
 05:01:54PM 3 talking in general about how hearsay works.

05:01:58PM 4 But the point is if someone is told that
 05:02:02PM 5 I guess -- and the issue is the state of mind of
 05:02:06PM 6 Mr. Ray in this instance, is what somebody might be
 05:02:10PM 7 on notice on, I guess.

05:02:14PM 8 Mr. Hughes.

05:02:18PM 9 MR. HUGHES: Your Honor, that is the state's
 05:02:22PM 10 argument. It's not hearsay. It's not offered to
 05:02:26PM 11 prove the truth of the matter whether she really
 05:02:30PM 12 was cold or she had this experience or not. It's
 05:02:34PM 13 offered to prove the effect on the listener. In
 05:02:38PM 14 this case the listener is the defendant.

05:02:42PM 15 Rule 404(b) does allow evidence if it
 05:02:46PM 16 goes to prove, for example, knowledge. That's
 05:02:50PM 17 exactly what we're trying to prove is Mr. Ray's
 05:02:54PM 18 knowledge that this is Ms. Brown's mental state and
 05:02:58PM 19 how she approaches his programs.

05:03:02PM 20 I'm told by Ms. Polk that the excerpt
 05:03:06PM 21 that we're going to play starts about nine lines
 05:03:10PM 22 down from the excerpt in the motion, starting
 05:03:14PM 23 around the words "and when we started the game, I
 05:03:18PM 24 was like you. I was, like, I'm going to be the
 05:03:22PM 25 hero." And then goes on through the remainder of

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05:02:26PM 1 that excerpt.

05:02:30PM 2 Your Honor, that information from that
 05:02:34PM 3 point on clearly is relevant to put Mr. Ray on
 05:02:38PM 4 notice, having heard that statement by Ms. Brown,
 05:02:42PM 5 that this is a person who would go into the sweat
 05:02:46PM 6 lodge and would stay in there until the very bitter
 05:02:50PM 7 end. At least that's a reasonable inference the
 05:02:54PM 8 jury can make from that evidence.

05:02:58PM 9 With respect to the argument that there
 05:03:02PM 10 is a 403 issue, Your Honor, 403 issue pertains to
 05:03:06PM 11 things like gruesome photographs in a murder case,
 05:03:10PM 12 for example, that serve no legitimate purpose in
 05:03:14PM 13 the case.

05:03:18PM 14 The case law talks about prejudice. It's
 05:03:22PM 15 evidence that is so severe that it causes the jury
 05:03:26PM 16 to reach an improper verdict for an improper
 05:03:30PM 17 motive, such as horror of what they've seen. There
 05:03:34PM 18 is nothing in here, Your Honor, like that, like we
 05:03:38PM 19 see in the cases that talk about undue prejudice.

05:03:42PM 20 Remember, "undue prejudice" is a legal
 05:03:46PM 21 term. It's not -- it's not -- obviously every
 05:03:50PM 22 evidence is prejudicial. I think the case law
 05:03:54PM 23 explains that. If it wasn't prejudicial, it
 05:03:58PM 24 wouldn't be relevant. It wouldn't be offered.

05:04:02PM 25 But in this case, Your Honor, it does go
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05:04:06PM 1 to Mr. Ray's state of mind. It is relevant. It's
 05:04:10PM 2 not hearsay because it's for that reason. We would
 05:04:14PM 3 ask that the Court allow us to play that excerpt.

05:04:18PM 4 THE COURT: It does not say anything about the
 05:04:22PM 5 state of mind of Kirby Brown, though. It's
 05:04:26PM 6 absolutely inadmissible for that. The brief by the
 05:04:30PM 7 defense talks about that. But it is not admissible
 05:04:34PM 8 for that. It's what notice it might put Mr. Ray
 05:04:38PM 9 on -- this is the theory as I understand it -- for
 05:04:42PM 10 knowing that people would follow directions like
 05:04:46PM 11 that or something.

05:04:50PM 12 MR. HUGHES: Your Honor, we agree with that.
 05:04:54PM 13 If the Court believes a limiting instruction is
 05:04:58PM 14 necessary, certainly the state wouldn't oppose it
 05:05:02PM 15 to explain to the jury it is being offered for that
 05:05:06PM 16 limiting purpose.

05:05:10PM 17 THE COURT: I want hear from Ms. Do. I think
 05:05:14PM 18 403 applies in a lot of other context, of course,
 05:05:18PM 19 than photographs. And that's a concern. And if
 05:05:22PM 20 this comes in as hearsay but it becomes not hearsay
 05:05:26PM 21 when it's not for the truth of the matter asserted,
 05:05:30PM 22 then the other party, of course, is automatically
 05:05:34PM 23 entitled to a limiting instruction. That's how
 05:05:38PM 24 that works.

05:05:42PM 25 Ms. Do.

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05 05 25PM 1 MS. DO: Your Honor, I think it's significant
 05 05 28PM 2 to note that the state began with a theory that
 05 05 32PM 3 this was relevant -- Ms. Brown's state of mind.
 05 05 35PM 4 They began there and only abandoned that after we
 05 05 41PM 5 raised our objection yesterday and reminded the
 05 05 44PM 6 Court that the Court had already ruled the excerpt
 05 05 46PM 7 inadmissible for that purpose.

05 05 48PM 8 The state then found a new theory to try
 05 05 49PM 9 and fit this evidence in. I think that that should
 05 05 50PM 10 be considered by this court as to the true purpose
 05 05 53PM 11 of why the state wants this evidence in.

05 05 56PM 12 I think that the probative value, as
 05 05 59PM 13 articulated by the state, is so far outweighed by
 05 06 03PM 14 the prejudice of playing the voice of one of the
 05 06 07PM 15 decedents to the jury.

05 06 08PM 16 I understand the Court's prior reasoning
 05 06 12PM 17 that there are some factors that may be relevant in
 05 06 15PM 18 assessing the defendant's state of mind. But in
 05 06 18PM 19 this case it seems like we're missing a very
 05 06 20PM 20 important step. And that is has the state even
 05 06 22PM 21 shown by evidence that Mr. Ray was aware of a
 05 06 26PM 22 substantial and unjustified risk of death within
 05 06 29PM 23 the sweat lodge to connect up to the knowledge
 05 06 32PM 24 nexus.

05 06 33PM 25 That Mr. Ray is relevant -- I'm sorry --
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05 06 37PM 1 Mr. Ray is aware of the fact that his participants
 05 06 41PM 2 want to play full on or whether they want to go
 05 06 43PM 3 into the activities with 100 percent commitment,
 05 06 46PM 4 the state's been able to introduce that evidence in
 05 06 48PM 5 a very cumulative fashion through almost every
 05 06 51PM 6 witness that's taken the stand, through the
 05 06 53PM 7 question of playing full on, through the
 05 06 55PM 8 questioning of -- you know -- people's commitments.

05 06 58PM 9 I think that the Court needs to weigh the
 05 07 00PM 10 403 and look at what probative value this
 05 07 05PM 11 particular hearsay evidence, this statement by the
 05 07 10PM 12 decedent is going to have and weigh that against
 05 07 13PM 13 the prejudice to Mr. Ray of having the voice of the
 05 07 15PM 14 decedent in this case played.

05 07 23PM 15 I'm sorry, Mr. Hughes. If I may say one
 05 07 25PM 16 more thing.

05 07 28PM 17 THE COURT: Go ahead.

05 07 28PM 18 MS. DO: I'm sorry.

05 07 28PM 19 I mean, we're troubled by this for the
 05 07 30PM 20 same reason why we are troubled by the fact that in
 05 07 34PM 21 Ms. Polk's opening statement I noticed for a good
 05 07 41PM 22 hour and a half through her various discussion of
 05 07 43PM 23 the facts and the evidence in this case, she had
 05 07 46PM 24 one slide and one slide up there. And that was the
 05 07 46PM 25 photographs of all three of the decedents.

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05 07 49PM 1 And through the testimony of Ms. Tucker
 05 07 52PM 2 today, and it continued into Ms. Haley's testimony
 05 07 55PM 3 even after we raised an objection at the bench with
 05 07 58PM 4 Your Honor that these display of the victims'
 05 08 03PM 5 photos. I mean, we all understand this is a
 05 08 07PM 6 tragedy. But the jury is supposed to decide this
 05 08 08PM 7 case on the facts and merits of the evidence, not
 05 08 11PM 8 on emotion, not on sympathy.

05 08 13PM 9 And it's very clear that the state, when
 05 08 15PM 10 it elects to leave the photograph of the decedents
 05 08 18PM 11 up on the projector for a good 15 minutes while
 05 08 21PM 12 it's moved on to discussions of facts having
 05 08 24PM 13 nothing to do with the photo, the intent is very
 05 08 27PM 14 clear.

05 08 27PM 15 And I think that needs to be factored
 05 08 32PM 16 into assessing why it is the state wants to play
 05 08 34PM 17 the voice of Kirby Brown in this case. The
 05 08 38PM 18 prejudicial value I think is very clear, Your
 05 08 41PM 19 Honor.

05 08 41PM 20 MR. HUGHES: Your Honor, the state's not
 05 08 42PM 21 suggesting that prejudicial evidence is limited to
 05 08 45PM 22 photographs. I was using that by way of example.

05 08 48PM 23 THE COURT: I know. I know. That's a
 05 08 51PM 24 rather -- can be a rather extreme 403 example.
 05 08 57PM 25 It's almost in every time there is evidence

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05 08 58PM 1 offered, there is a 403 analysis that has to be
 05 09 03PM 2 done, sometimes instantaneously.

05 09 05PM 3 I understand, Mr. Hughes.

05 09 07PM 4 MR. HUGHES: Really the bulk of the cases talk
 05 09 10PM 5 about gory photographs. And Your Honor is right.
 05 09 13PM 6 403 needs to be -- as do all the other rules of
 05 09 15PM 7 evidence, needs to be analyzed in every case.

05 09 18PM 8 What I was referring to with respect to
 05 09 21PM 9 the photos is the case law that defines the term
 05 09 24PM 10 "undue prejudice" defines that term as evidence
 05 09 27PM 11 that would have a tendency of causing the jury to
 05 09 30PM 12 reach an improper decision based on something like
 05 09 34PM 13 horror or what they've seen or what they would
 05 09 36PM 14 hear. There is nothing like that in this
 05 09 38PM 15 transcript, Your Honor.

05 09 38PM 16 With respect to the issue of the state
 05 09 43PM 17 making a new argument, we have always argued that
 05 09 47PM 18 this evidence is relevant for two purposes. Your
 05 09 50PM 19 Honor yesterday ruled that it's not relevant for
 05 09 53PM 20 Ms. Brown's state of mind and that it's not
 05 09 58PM 21 admissible. We respect that ruling. And I'm not
 05 09 58PM 22 arguing that issue today.

05 10 06PM 23 We raised both issues yesterday. And
 05 10 02PM 24 we're raising the second issue, which is the
 05 10 04PM 25 surviving one, and the one that was discussed

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05 10 07PM 1 yesterday today.

05 10 09PM 2 Your Honor, I think when the Court does

05 10 11PM 3 make the 403 weighing of the evidence, it has to

05 10 13PM 4 determine, first of all, the relevant effect of

05 10 15PM 5 this evidence on a material issue in this case,

05 10 17PM 6 which is the defendant's mens rea. What did he

05 10 19PM 7 know when Ms. Brown went into that sweat lodge?

05 10 21PM 8 What did he know when he heard people make a

05 10 23PM 9 comment in the sweat lodge about her being in

05 10 25PM 10 distress, and what did he know when he left the

05 10 27PM 11 sweat lodge?

05 10 29PM 12 Those are the relevant issues, Your

05 10 31PM 13 Honor, is his mens rea pertaining to the causation

05 10 33PM 14 issue. And the fact that the defense is trying to

05 10 35PM 15 look at this evidence in a vacuum, I don't think

05 10 37PM 16 you can do that when you're doing the weighing of

05 10 39PM 17 evidence that 403 requires.

05 10 41PM 18 Thank you.

05 10 43PM 19 THE COURT: Okay. This evidence is going to

05 10 45PM 20 be presented during Ms. Haley's testimony?

05 10 47PM 21 MR. HUGHES: That's correct, Your Honor.

05 10 49PM 22 THE COURT: That's the intent?

05 11 01PM 23 MR. HUGHES: Yes. We believe she can lay the

05 11 03PM 24 proper foundation for that. She was present when

05 11 05PM 25 those statements were made.

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05 11 20PM 1 THE COURT: Okay. The problem is, as I've

05 11 22PM 2 indicated, there is a lot here I just can't imagine

05 11 24PM 3 that we -- why it would be admissible even on the

05 11 26PM 4 issue of Mr. Ray's knowledge or any issue on that.

05 11 28PM 5 MS. DO: Your Honor, if the Court is inclined

05 11 30PM 6 to allow the state to play its select excerpts, I

05 11 32PM 7 think to give the jury an understanding to put this

05 11 34PM 8 into full context, then the rule of completeness

05 11 36PM 9 will require.

05 11 38PM 10 THE COURT: I agree. I don't have any problem

05 11 40PM 11 with that if that's the case. You had mentioned

05 11 42PM 12 the fact of playing a voice. And that made me

05 11 44PM 13 think what is the relevance of that. And that tied

05 11 46PM 14 in with your argument about the photographs. And

05 11 48PM 15 the photographs were there longer than necessary.

05 11 50PM 16 The last time you stood up, Ms. Polk,

05 11 52PM 17 asked one more question, did take the photograph

05 11 54PM 18 away. The photograph did have to do with

05 11 56PM 19 Ms. Neuman at that time. I am going to ask people

05 11 58PM 20 to be mindful of that, to leave an exhibit up.

05 12 00PM 21 And --

05 12 02PM 22 MS. DO: Your Honor, perhaps before the Court

05 12 04PM 23 reaches the decision on this issue, we would like

05 12 06PM 24 to submit 735 so the Court can listen to it.

05 12 08PM 25 THE COURT: That would be appropriate. Yes.

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05 12 55PM 1 MR. HUGHES: Your Honor, the state is

05 12 57PM 2 willing -- certainly the state agrees that the rule

05 12 59PM 3 of completeness is an important rule. If the

05 13 01PM 4 defense wants to let us know Monday morning what

05 13 03PM 5 else they think should go along with this to

05 13 05PM 6 complete it, we'd be happy to submit a new exhibit

05 13 07PM 7 that would have the context they're asking for

05 13 09PM 8 also. Or, again, we'd be happy to submit the

05 13 11PM 9 entire recording of the event. I know that's an

05 13 13PM 10 issue that's popped up several time.

05 13 15PM 11 But completeness -- if that's going to be

05 13 17PM 12 an issue, we have no objection to making sure that

05 13 19PM 13 it's as complete as possible.

05 13 21PM 14 And, likewise, if the Court thinks this

05 13 23PM 15 needs to be redacted from what's on the transcript

05 13 25PM 16 here, if the Court tells us what to take out, we

05 13 27PM 17 will respect that ruling.

05 13 29PM 18 THE COURT: What I need, then, are what the --

05 13 31PM 19 understanding you preserve the record, what the

05 13 33PM 20 defense would want to present, I would need to have

05 13 35PM 21 that and what the state wants. Although I think

05 13 37PM 22 that part has been divided. The rule of

05 13 39PM 23 completeness, if we would want to call it that, it

05 13 41PM 24 would come in in that fashion. And I need to have

05 13 43PM 25 that by Monday just so we're not having a delay in

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05 14 09PM 1 starting up on Tuesday.

05 14 11PM 2 MR. HUGHES: Your Honor, what the state would

05 14 13PM 3 request to play has been marked. It's not been

05 14 15PM 4 admitted obviously. But it is available for the

05 14 17PM 5 Court. It's Exhibit 735.

05 14 19PM 6 As I said, if the defense will call me on

05 14 21PM 7 Monday morning, I'm more than willing to work with

05 14 23PM 8 them to try to prepare a new exhibit with what they

05 14 25PM 9 would consider to be the complete portion.

05 14 27PM 10 THE COURT: Ms. Do, what's the other exhibit

05 14 29PM 11 you have?

05 14 31PM 12 MS. DO: Your Honor, it is 735. The Court

05 14 33PM 13 does have that copy.

05 14 35PM 14 THE COURT: Okay.

05 14 37PM 15 Anything else?

05 14 39PM 16 MR. HUGHES: No, Your Honor. Thank you.

05 14 41PM 17 MS. DO: No, Your Honor. Thank you.

05 14 43PM 18 THE COURT: All right.

05 14 45PM 19 (The proceedings concluded.)

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05 14 51PM 22

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05 14 55PM 24

05 14 57PM 25

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1 STATE OF ARIZONA)
2 COUNTY OF YAVAPAI) ss REPORTER'S CERTIFICATE

3
4 I, Mina G Hunt, do hereby certify that I
5 am a Certified Reporter within the State of Arizona
6 and Certified Shorthand Reporter in California

7 I further certify that these proceedings
8 were taken in shorthand by me at the time and place
9 herein set forth, and were thereafter reduced to
10 typewritten form, and that the foregoing
11 constitutes a true and correct transcript

12 I further certify that I am not related
13 to, employed by, nor of counsel for any of the
14 parties or attorneys herein, nor otherwise
15 interested in the result of the within action

16 In witness whereof, I have affixed my
17 signature this 18th day of January, 2012.

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CA CSR No. 8335

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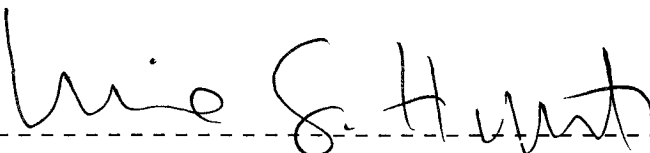
1 STATE OF ARIZONA)
2 COUNTY OF YAVAPAI) ss: REPORTER'S CERTIFICATE
3

4 I, Mina G. Hunt, do hereby certify that I
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19
20
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